FINAL REPORT

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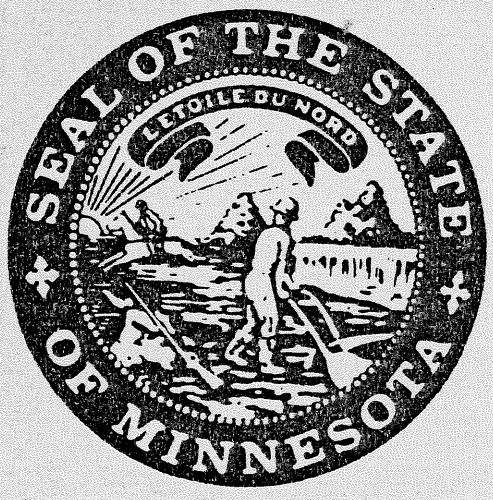
OF THE
SELECT COMMITTEE
ON THE
STATE JUDICIAL SYSTEM



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OF THE

SELECT COMMITTEE
ON THE STATE JUDICIAL SYSTEM

Appointed by Chief Justice Robert J. Sheran
Under the Auspices of the State Judicial Council

This project was supported by the Minnesota Governor's Commission on Crime Prevention and Control Grant Numbers 3310012274 and 3309012275 and matching funds from the Judicial Council and the Legislature of the State of Minnesota.

TABLE OF CONTENTS

Page

Letter of Transmittal

Table of Contents i

Roster of Members of the Select Committee

I. INTRODUCTION

A. Background 1

B. Methodology 1

C. Interim Report 3

D. Second Year 6

II. RECOMMENDED STEPS FOR AN IMPROVED MINNESOTA STATE COURT SYSTEM

A. Step One: Removal of Impediments to Manageable Structure..... 6

B. Step Two: Independent Statewide Financing..... 8

C. Step Three: Effective Administrative Organization..... 9

III. FISCAL IMPACT OF RECOMMENDATIONS 17

APPENDICES

A. Revised Select Committee Bill 19

B. Consultant Report on Administrative Structure: Emphasis on the Office of State Court Administrator 28

C. Consultant Report on Administrative Structure: Emphasis on the Office of District Administrator 42

D. Consultant Report on Administrative Structure: Emphasis on the Role of Chief Judge of the District 47

E. Elaboration on Fiscal Impact of Recommendations..... 52

F. Bibliography 58

G. List of Individuals Presenting Testimony 62

H. Comments 64

— Comment of the Hon. Lawrence R. Yetka

— Comment of the Hon. Charles E. Cashman

— Comment of the Hons. Harvey A. Holtan and Bruce C. Stone

— Comment of the Hon. Charles C. Johnson

— Comment of the Hon. James H. Johnston

MEMBERS OF THE

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Former Governor
St. Paul, Minnesota

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GROSS, MRS. PEGGY
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* Resigned, June 30, 1975
** Appointed, August 1, 1975

Govt Judiciary

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Rep. Tom K. Berg
Hon. Charles E. Cashman
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Hon. Paul Kimball, Jr.
Richard E. Klein
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Norman Perl
Hon. Robert J. Sheran
Paul Willette

The following reflects the positions taken by the members of the Select Committee on the Judicial System concerning the final report.

CONCURRING

Hon. Elmer L. Andersen
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William J. Cooper
Peggy Gross
Gene W. Halverson
James Harper
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Thomas Kalitowski
Hon. Allan R. Markert
Edward G. Novak
David Roe
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Hon. Harvey A. Holtan
Hon. Charles C. Johnson
Hon. James H. Johnston
Hon. Bruce C. Stone
Hon. Lawrence R. Yetka

NONCONCURRING

Hon. Charles E. Cashman

Individual comments of the Committee members may be found in Appendix H.

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CONSULTANTS

1974-1975

Personnel and Financial:
Arthur Young & Company

1975-1976
Role of Chief Judge of the District:
Hon. Alfred Sulmonetti
Hon. Frederick Woleslagel

Administrative Structure: Offices of State Court and District Administrators
James A. Gainey
Bert M. Montague
Ellis D. Pettigrew

* July, 1974 - June, 1975

I. INTRODUCTION

A. Background

In the spring of 1974 the State Judicial Council began studying recent suggestions for structural revision of the Minnesota court system. Bills were introduced in the 1973-74 Legislature which would have effected systemic changes in both the structure and administrative operation of our courts. These sweeping changes collectively assumed the title of "court unification."

"Court unification" soon became a catch-all term for many varieties of court reform. Little comment, however, had been made on how "court unification" would respond to needs specifically identified to exist in the Minnesota court system.

Chief Justice Robert J. Sheran encouraged the Judicial Council to create a broadly based committee to sort through the many previously identified needs of our court system and to recommend appropriate legislative and administrative action. Thus the Judicial Council sponsored the creation of the Select Committee on the Judicial System; and with a grant from the Governor's Commission on Crime Prevention and Control, the Chief Justice was asked to appoint to the Select Committee representatives of diverse points of view. The Select Committee on the Judicial System, then, consisted of members from the Bench, the Bar and representatives of numerous public groups.[1]

The Select Committee was supported by a research staff. Austin G. Anderson, formerly a Minnesota attorney and Regional Director of the National Center for State Courts and now Director of the Institute for Continuing Legal Education at the University of Michigan School of Law, was appointed Project Director for the Select Committee. Susan Beerhalter Soule, formerly a research associate for the National Center for State Courts who participated in the Minnesota District and County Court Surveys, and Steven J. Muth, attorney, who assisted Austin G. Anderson in the developmental stages of the Continuing Education program for State Courts Personnel prior to the appointment of the program's permanent director, were appointed research associates. Eleni P. Skevas, formerly a courts specialist for the Governor's Crime Commission and now a University of Minnesota law student, performed additional research activities.

B. Methodology

The staff commenced work in July, 1974, collecting and preparing literature for Committee study. A study of major court reform efforts throughout the United States was produced[2] and much documentation of specific court reform attempts was made available to the Committee.

In meetings conducted over a two-year period, the Committee heard from representatives of other states involved in the process of court system analysis and improvement[3] and reviewed many documents national in scope such as the American Bar Association's Standards Relating to Court Organization and the National Advisory

1 See Roster of Members, supra.

2 "A Survey of Unified Court Organizations," August, 1974

3 Testimony was received from representatives of Colorado, Kansas, North Carolina and Pennsylvania.

Commission on Criminal Justice Standards and Goals' Courts. The Committee decided, however, that while it would study such national recommendations and review court reform efforts in other states, the intent of Committee deliberations would be to define problems in our own court structure and recommend changes tailored to meet Minnesota's specific needs.

Pursuing this course, the Committee reviewed in detail the Minnesota studies by the National Center for State Courts,[4] the 1942 Minnesota Judicial Council report on court unification and the bills introduced in the Minnesota Legislature calling for court reform. To expand the range of practical knowledge, expertise and viewpoints brought to deliberations by Committee members, invitations to appear before the Committee were sent to representatives of numerous Minnesota groups including judges', clerks', court administrators', court reporters', law enforcement officers', probation officers', public defenders' and municipality and county officers' associations. Many representatives did appear throughout the course of deliberations.[5]

Consultants also played a role in the Committee's work. During the first year of the project, Arthur Young and Company was engaged by the Committee to conduct fiscal and personnel studies of the Minnesota court system in order to provide data on number, organization and duties of current nonjudicial personnel and on revenues and expenditures of the court system. The Committee felt such information was essential to its decision-making process. Arthur Young and Company also made classification, compensation and accounting recommendations which would facilitate transition to a state funded court system should that be a final recommendation of the Committee.[6]

In the fall of 1975, the Committee employed consultants to review the administrative structure of the Minnesota courts and to develop an effective management system for the courts that would complement the legislative recommendations of the Select Committee. Judge Alfred Sulmonetti of the Circuit Court, Portland, Oregon, and Judge Frederick Woleslagel of the District Court, Lyons, Kansas, were engaged to study the role of chief judge of the district; Mr. Ellis D. Pettigrew, Court Administrator for the State of South Dakota, and Mr. James A. Gainey, Deputy Judicial Administrator for the State of Louisiana, studied the role of district administrator; and Mr. Bert M. Montague, Court Administrator for the State of North Carolina, studied the functions of the Office of State Court Administrator.

The consultants, in performing their task, adhered to the Committee's philosophy which stated that, while they would study recommendations made by the American Bar Association and other national groups and would review court reform efforts in other states, the focus of their deliberations would be the Minnesota court structure keeping in mind Chief Justice Sheran's preference for decentralized control and participatory management.

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4 Minnesota County Court Survey, National Center for State Courts, Publication No. R0011, March, 1974. Minnesota District Court Survey, National Center for State Courts, Publication No. R0014, July, 1974. Study of the Appelate System in Minnesota, National Center for State Courts, 1973.

5 See Appendix G for list of individuals / organizations appearing before the Select Committee.

6 Nonjudicial Staffing Study and A Study of the Financial Aspects of the Minnesota Court System, Arthur Young & Co., 1975

The following methodology was employed to accomplish these ends. The consultants joined with the Select Committee staff in the design of questionnaires dealing with various elements of administration, which were submitted to the Chief Justice and Associate Justices of the Supreme Court, Supreme Court staff members, state court administrative staff personnel, trial court judges, and trial court administrators. A summary of the responses to the questionnaires was prepared for the consultants who made on-site visits where they interviewed key members of each group from whom questionnaires had been received. Thus, the consultants had the opportunity to study the constitutional and statutory provisions of the State relating to the court system, to review surveys conducted by the National Center for State Courts and studies made by the Arthur Young Company, and to receive written and oral input from the officials responsible for making the Minnesota court system run.

C. Interim Report

Midway in its two years of activity, the Select Committee, at its January 22, 1975 meeting, made interim recommendations for the improvement to Minnesota's courts. The recommendations were designed to serve as a guideline to the Legislature, Judicial Council and the Supreme Court in their deliberations of court reform options. This report also served as the basis of the Select Committee Bill[7] presented to the Minnesota House of Representatives in 1975.

At the heart of the Committee's recommendations was the concern for better delivery of higher quality judicial services to the people of Minnesota. The Committee felt that this concern could best be met by the implementation of administrative changes rather than changes in trial court structure. The administrative changes were recommended to achieve the following goals:

1. Optimum Use of Judicial Personnel.

The Committee believes that the present court system lacks the flexibility and procedures which enable judicial personnel to respond efficiently to shifts and imbalances in workload. Therefore, the Committee has proposed the following changes.

a. The existing authority of the Chief Justice to assign a district court judge from one judicial district to another when public convenience and necessity require it (M.S. 2.724) would be extended to judges of all courts.

b. In order to ensure efficient assignment of judges within a district to meet shifting workload demands, a single chief judge of the judicial district would make assignment of judges, including himself, to all cases within a judicial district. This assignment authority would include the power to assign a district court judge to county court matters or a county court judge to district court matters. A judge aggrieved by an assignment may appeal the assignment to the Supreme Court. The district administrator would be responsible for seeing that timely and accurate workload data was available to the chief judge to assist him in his assignment function.

7 Appendix A is a redraft of H.F. 1796 which reflects discussions of the Select Committee since the introduction of the bill.

c. In order to prevent the arbitrary barrier to flexible judicial assignment which is created by the present system of general terms of court, said terms would be abolished and replaced by a continuous term of court.

d. Recognizing that optimum use of judicial personnel implies a balancing of quality, efficiency, and accessibility, the Supreme Court would have the authority to establish residency or chambers requirements for judges when necessary to ensure equal accessibility of judicial services to all people.

e. In order to ensure the continuing ability of the court system to provide speedy delivery of judicial services, the Supreme Court would have the authority to alter the boundaries or change the number of judicial districts, excluding districts 2 and 4, and to separate or combine county court districts should existing districts prove detrimental to said delivery of services.

2. Clarification of Administrative Duties and Responsibilities.

Courts are local institutions responding to local needs and laws but have grown to acquire statewide jurisdiction to meet modern requirements in the administration of justice. While people have become more mobile and the needs and expections of courts more universal, courts have frequently continued to be administered under systems adopted in response to the needs of the nineteenth century and united through a loosely structured, loosely coordinated system in which administrative responsibility is ill - or un-defined. To meet this problem, the Committee has developed a responsive administrative structure for the judiciary which clearly defines the administrative organization, functions and accountability.

a. The Chief Justice's general supervisory powers over the court system would be spelled out to include supervision of administrative operations generally, financial affairs, planning and research, continuing education and chief liaison functions. He would have the authority to designate individual judges or committees to assist him in the performance of his duties.

The Chief Justice would also continue to supervise and direct the performance of the State Court Administrator. The latter, in addition to his present duties would be assigned specific responsibility for the preparation of standards and procedures for the recruitment, evaluation, promotion, in-service training and discipline of court personnel other than judges and judicial officers in order to ensure fair hiring practices which attract high-quality personnel and provide professional growth for employees within the system. The State Court Administrator would also be assigned responsibility for the promulgation and administration of uniform requirements for records, budget and information systems and statistical compilation and controls to ensure that accurate, comparable data on the work performed, cases processed and money handled by the court system is gathered and reported by all courts within the state.

b. To ensure clear lines of accountability, the Committee would provide for Supreme Court appointment of the single chief judge of the judicial district who shall be a full-time, non-retired county, district, municipal or probate court judge. The chief judge, subject to the authority of the Chief Justice,

would exercise general administrative authority over all state courts within the judicial district and have the assignment authority described under point 1.b. The chief judge may appoint such assistant judges as might be necessary to fulfill the duties of his office.[8]

c. The chief judge, in turn, would appoint the district administrator for the judicial district with the advice and approval of all judges in that district. The district administrator would serve at the pleasure of the chief judge and would assist him in the performance of his administrative duties and perform any additional duties assigned by law or rule of court. The Select Committee Bill outlines some of the district administrator's functions in Section 20.

d. The clerk of court for the county would be appointed by a majority of the district court judges within the district after their having received a recommendation from the chief judge who would choose from applicants referred to him by the district administrator.

3. Improved Communication and Participatory Management.

In order to facilitate greater communication, cooperation and coordination and to ensure on-going attention at all levels of the judiciary to the problems which inhibit improved judicial service to the citizen, the Select Committee has included the following provisions in its bill.

a. It would make mandatory the (at least) annual conference which the Cheif Justice currently may call for the consideration of "matters relating to judicial business, the improvement of the judicial system and the administration of justice." The conference would include all judges, members of the legislative judiciary committees and invited members of the bar.

b. The chief judges of the judicial districts would meet at least bi-monthly to consider problems related to judicial business or administration. After consultation with the judges of their districts, the chief judges would be required to prepare in conference and submit to the Chief Justice a suggested agenda for the annual judicial conference.

c. The chief judge would convene a conference at least twice a year of all judges within the judicial district to consider administrative matters and rules of court and to provide advice and counsel to the chief judge.

4. Judicial Quality.

The quality of a court system is determined chiefly by the quality of its judges. High competency is essential for judges of all trial courts, district, municipal, county, or probate. The Committee therefore recommends that judicial salaries of all trial judges be the same to recognize this equality to the public, the bar, and their peers and also that the compensation be adequate to continue to attract highly qualified people to the bench who can serve without undergoing economic hardship.

8 It is contemplated that the chief judge would have the option to appoint an assistant chief judge for county court or an assistant chief judge for district court as necessary.

The Committee unanimously agreed that the following steps be taken during the next legislative session to insure that judicial salaries be adequate to attract qualified judicial candidates. First, that in the year 1977 judicial salaries be increased to $45,000 for the trial judges, to 110 percent of the salary of a trial court judge for an Associate Justice of the Supreme Court and to 110 percent of the salary of an Associate Justice for the Chief Justice of the Supreme Court; that judicial salaries be increased annually according to M.S. 43.12, Subd. 10 which allows cost of living adjustments for classified State of Minnesota employees, and, further, that the Legislature biennially review judicial salaries to insure that they are adequate to attract well-qualified candidates.

In addition, the Committee recommended the Legislature consider the creation of a permanent salary commission which would recommend salaries for the members of the judiciary, legislature and holders of constitutional offices.

It may be noted that the above recommendations contained in I.C., sections 1 through 4, are drawn from the majority report presented in the Committees' Interim Report of February 26, 1975. That document also contained three minority reports.

D. Second Year

During its second project-year, the Select Committee focused on 1) providing adequate resources to the courts, 2) alternative methods of adequately funding them on a continuing basis, and 3) the development of a sound administrative system to complement and carry out the legislative recommendations made earlier. The consultant's role in the second-year effort is highlighted in the "Methodology" section (I.B.). The recommended management system, fiscal requirements and a timetable for realizing them appear in the succeeding sections of this report.

II. RECOMMENDED STEPS FOR AN IMPROVED MINNESOTA STATE COURT SYSTEM

Assuming as a goal the delivery of fair and equal justice with a reasonable degree of efficiency and dispatch, the Committee staff and consultants sought to determine what was necessary to produce this result. They identified a number of requirements. Among them was a manageable structure. Since the 1971 amendment substituting the county court for the multitude of previously existing lower courts, the Minnesota system has moved forward in realizing this prerequisite. In adapting to the new system, however, two problems have emerged which impede effective functioning of the structure. The elimination of these problems is the first step necessary to the realization of an improved Minnesota court system.

A. Step One: Removal of Impediments to a Manageable Structure

1. County Court District Realignment.

In the original County Court Act, several multi-county court districts were established in an effort to provide inexpensive judicial service to counties with small

populations while permitting adequate judicial personnel and flexibility of assignment to higher population counties. As a political compromise, however, the act gave the counties the opportunity to split from these established districts into single-county districts. Many counties exercised that option which resulted in a relatively expensive judicial system for some very small counties and an inadequate number of judges in some of the more heavily populated counties.

The Committee felt that the first step necessary to eliminate this imbalance in judicial placement and workload is the realignment of county court districts by the Supreme Court according to the principles which guided the alignment in the County Court Act. More care might be taken, however, in respecting existing judicial district boundaries and other relationships.

The Select Committee Bill provides for this realignment by the Supreme Court. The Select Committee favors multi-judge districts in both district and county courts.

2. Division of Responsibility Between Trial Courts.

The second problem which prevents the existing structure from operating at its top capacity is the confusion and imbalance in workload resulting from the concurrent jurisdiction shared by county and district courts. The county court has concurrent jurisdiction with the district court in the following cases:

a. proceedings for administration of trust estates or actions relating thereto;

b. proceedings for dissolution, annulment, and separate maintenance and actions relating thereto;

c. actions under the Reciprocal Enforcement of Support Act;

d. adoption and change of name proceedings;

e. proceedings to quiet title to real estate and real estate mortgage foreclosure action. (M.S. "Section" 487.14-.19).

While the original intent of the concurrent jurisdiction was to create a flexibility between the two courts and a means of balancing workload, the lack of an appropriate administrative method for accomplishing that balance has created ambiguity or imbalance. Some district courts have destroyed altogether the avenue of flexibility by promulgating rules which arbitrarily shift all matters of a certain type — e.g., dissolution of marriage — to the county court so that regardless of heavy workloads that might exist in county court and light loads in district court, or vice versa, the former must nonetheless handle what is designated a "concurrent" matter.

The Select Committee proposal would eliminate the inflexibility and imbalance through its legislative and administrative recommendations which would result in the revocation of the district court rules which violate the concurrent jurisdiction concept embodied in the County Court Act. Under the Committee recommendations, the chief judge of the judicial district would have general administrative and

assignment authority over both trial courts within the judicial district. Aided by a district administrator within the judicial district and a Data and Systems Manager at the state level who share with the chief judge the responsibility for generating accurate caseload data and for the identification of calendar management problems and development of solutions, the chief judge can assign "concurrent" matters in a way that will best balance the workload. As an additional tool to help balance caseloads, the chief judge may also make use of the Select Committee's provision for the assignment of county court judges to district court matters or district court judges to county court matters. This combination of administrative flexibility, specification of caseload management responsibility, accurate data on which to make assignment decisions and availability of technical expertise should effectively eliminate the workload problems arising from concurrent jurisdiction.

B. Step Two: Independent Statewide Financing

During the course of the Committee's two-year study, one fact became first apparent and then preeminent: to bring the quality of judicial service to a high standard in all counties throughout the state and to maintain that standard in the future, an ongoing source of funding must exist. It also became apparent that the county cannot be this source. The property tax base varies far too greatly from county to county to ensure equal resources and thus equal delivery of services. Levy limits are placed by the Legislature on the county's ability to tax. Demands for county services increase and yet so do the number of programs or services created by the Legislature that require county funding.

The state is the logical source of funds to accomplish equality of service throughout Minnesota as well as increased quality. Not only is it logical, it is equitable. The judiciary is one of three co-equal branches of government and has a Constitutional charge to administer justice to the citizens of Minnesota. Yet of the three co-equal branches, the judiciary is the only one which must go to the counties for the majority of its funding. State appropriations to the judicial branch of government for the 1975-77 biennium were only an approximate .16 percent of estimated state funding exclusive of federal funds.[9] It is time to shift the burden from the county to the state.

Turning to history for guidance, one finds that, in the development of highways, conservation and education in Minnesota, progress was not really made until an independent source of state funds was dedicated to each of these programs. The greatest increase in service provided the people of Minnesota occurred after dedicated state funding was initiated. And so it should be for the judicial system. The courts must flourish, not flounder; for, in the words of the Supreme Court of Indiana, "the security of human rights and the safety of free institutions requires the absolute integrity and freedom of action of the courts."

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9 A Fiscal Review of the 1975 Legislative Session, Minnesota Senate, p. 21. This figure also includes allocations for the operation of State Public Defender services—$579,500—and State Law Library—$423,028—which are quasi-judicial functions and should not be included in the state court budget.

State funds could be provided the courts in one of several forms: 1) a specific source of state revenue could be dedicated to the courts, 2) a set percentage of the total state budget could be allocated to the courts, or 3) a single state court budget request could be submitted to the Legislature by the Chief Justice. In approving this provision for statewide financing, we are assuming and anticipating no reduction in financing standards in any district nor any state control of the judiciary except as granted the Supreme Court herein.

C. Step Three: Effective Administrative Organization

The state cannot be expected to finance the courts nor can judicial leadership hope to accomplish its goal without effective judicial administrative organization. The delivery of fair and equal justice with a reasonable degree of efficiency and dispatch and superior management of resources both require a sound management structure with clearly defined and placed management authority. The administrative structure approved by the Select Committee, after taking into consideration the recommendations made by the second-year consultants, provides this necessary definition and organization.

PROPOSED SYSTEM

1. The Select Committee Bill.

The Committee finds that a highly effective administrative management system for the courts of Minnesota is possible at the present time and that determination to move forward administratively with implementation of our recommendations will produce the necessary system.

Minnesota has a very distinct advantage over most of the states which have experienced court reform in that there is no apparent necessity to change the Constitution. Legislation will accomplish the purpose, and the Select Committee Bill provides sufficient authorization to meet most of the requirements. The Committee feels the basic requirements are provided for in the current version of the Select Committee Bill and, therefore, concludes that the number one goal is to secure passage of this bill.

2. Administrative Implementation.

a. Advisory Councils

Consultants Montague, Gainey and Pettigrew felt that the Select Committee Bill, essentially in its present form, would pass. This assumption led to two major features of their proposal to the Committee: (1) The Council of Chief Judges and (2) The Council of District Administrators.

Because the Select Committee Bill provides for the appointment of a chief judge in each judicial district by the Supreme Court, consultants Montague et al. proposed that these ten judges constitute the Council of Chief Judges. The

bill further calls for the appointment in each judicial district of a district administrator. This professional is to be appointed by the chief judge of the district. Montague et al. proposed that these ten district administrators constitute the Council of District Administrators. Section 2 of the bill authorizes the Chief Justice to designate individual judges and committes of judges to assist him in the performance of his duties.

> (Select Committee Bill, Section 2, Subd. 4 (c). Supervising the administrative operations of the courts. The cheif justice may designate individual judges and committees of judges to assist him in the performance of his duties.)

The consultants suggested that the Chief Justice designate the Council of Chief Judges as his advisory committee. They further recommended that that Council of Chief Judges could in turn organize the district administrators into the Council of District Administrators.

The Committee recommended that, while it concurred with the recommendation for establishing the Council of Chief Judges, the Chief Justice designate individual judges and committees of judges in addition to the Council of Chief Judges to assist him in the performance of his duties.

b. Policy-Making

The consultants, Montague, Gainey and Pettigrew, pointed out that in the proposed management structure, the Supreme Court stands at the head of the Judicial Department. However, the consultants did not infer that it will be required to initiate and implement all of the administrative rules. To assist the Court with its internal administrative operations, Mr. Montague proposed a Supreme Court Administrator. Montague, Gainey and Pettigrew also proposed a State Court Administrator to coordinate administrative operations within the courts on a statewide basis. The State Court Administrator would, of course, provide staff services to the Supreme Court with respect to its administrative management function. However, they did not propose that the State Court Administrator necessarily develop policy recommendations. These recommendations instead would be developed at the local trial court level by chief judges and the Council of Chief Judges; assisted by the Council of District Administrators. They proposed that the State Court Administrator provide secretarial and staff services for both these groups and thereby furnish the necessary coordination among those Councils and the Supreme Court.

The consultants recognized that there is no magic in any particular administrative structure. They sought to place planning and management of the courts in an institutionalized setting of judicial officials. Since there are varying needs of the courts among the different districts in Minnesota, they did not anticipate that the Council of Chief Judges would recommend strict uniformity throughout the state. For example, the Council would not direct a specific calendaring system to be used in every district. Uniformity should be

encouraged, and in those areas where it is workable, the consultants felt that the mere existence of the formalized setting within which the chief judges and administrators can come together and exchange ideas would produce some degree of uniformity. Subject to the general supervisory authority of the Chief Justice and to rules of the Supreme Court, the consultants thought it clear that the chief judges in concert could implement administrative practices to be followed throughout the state. Normally, however, when a uniform rule is proposed for statewide applicability, it would be presented by the Council to the Supreme Court and left for consideration and possible promulgation by the Supreme Court. In this operation, Mr. Montague recommended, the Supreme Court would not be directly involved on a frequent basis with the Council of Chief Judges or with the policy-making problem. Instead, it would be regularly advised by the State Court Administrator, acting as secretary for the Council, and through this coordinated arrangement there would be a steady flow of proposals going from the Council to the various courts of the state and, in necessary situations, upward to the Supreme Court for its determination.

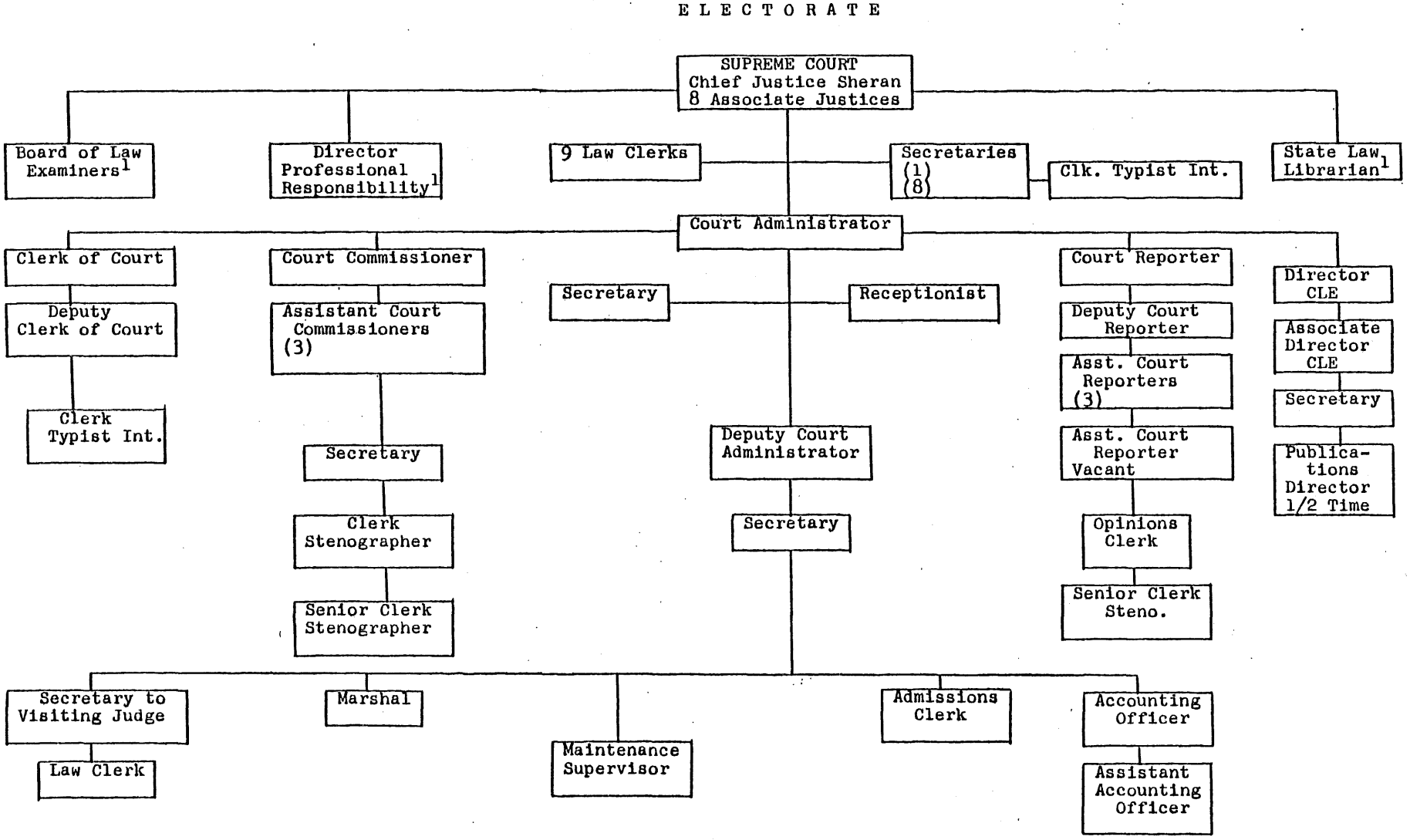
c. Administrative Staffing

The consultants next proposed increased staffing within the State Court Administrator's office. They — Montague, Gainey and Pettigrew — recommended hiring directors of personnel, fiscal management and data systems management as essential to Phase One implementation of services and, in Phase Two, directors of public relations, procurement, planning and research and technical assistance.[10] The judicial education arm is already in existence and only needs to be placed administratively in the appropriate setting (see Chart Two). The personnel responsibility would be placed upon the Administrator by the Select Committee Bill (see Select Committee Bill, Section 4, supra), and a two- or three-person staff will eventually be required to perform this function. The consultants recognized the need for a court information officer stating that many jurisdictions have already assigned this responsibility to a position. They felt the necessity to educate the public as to the needs of and the appropriate role and function of the courts, and a court information officer is the only known source of accomplishing this objective. There is no specific authorization in the Select Committee Bill, but, as Montague et al. pointed out, the office can be established through an LEAA grant application.

Section 5 of the Select Committee Bill, which provides that the Court Administrator shall promulgate and administer uniform requirements concerning records, budget and information systems and statistical compilation and controls, clearly places the responsibility of fiscal management on the State Court Administrator. The consultants felt this would require the preparation and implementation of uniform records and

10 For an explanation of Phases One and Two, see Appendix B.

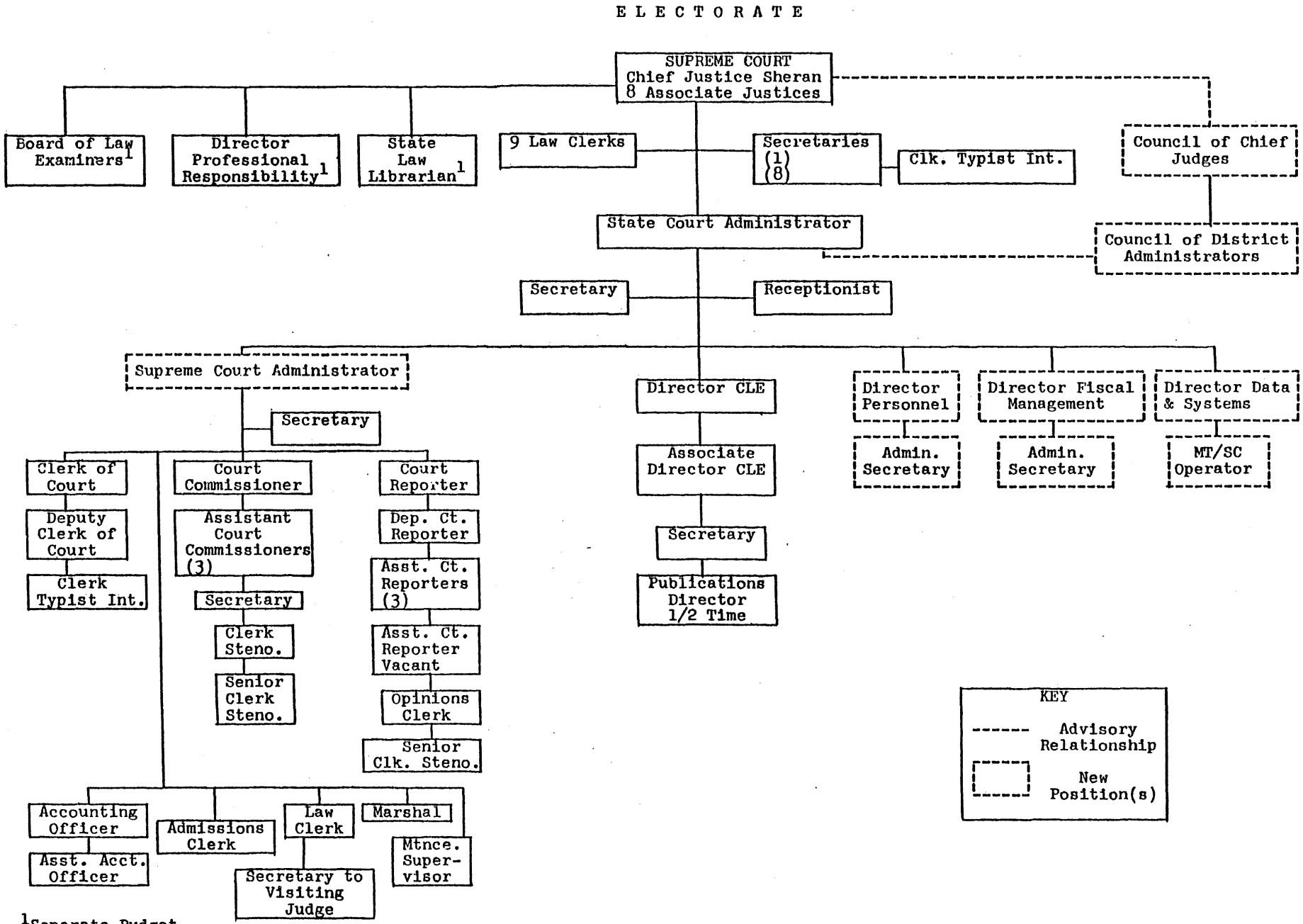
CHART ONE



[1]Separate Budget

EXISTING ADMINISTRATIVE STRUCTURE OF THE MINNESOTA COURT SYSTEM

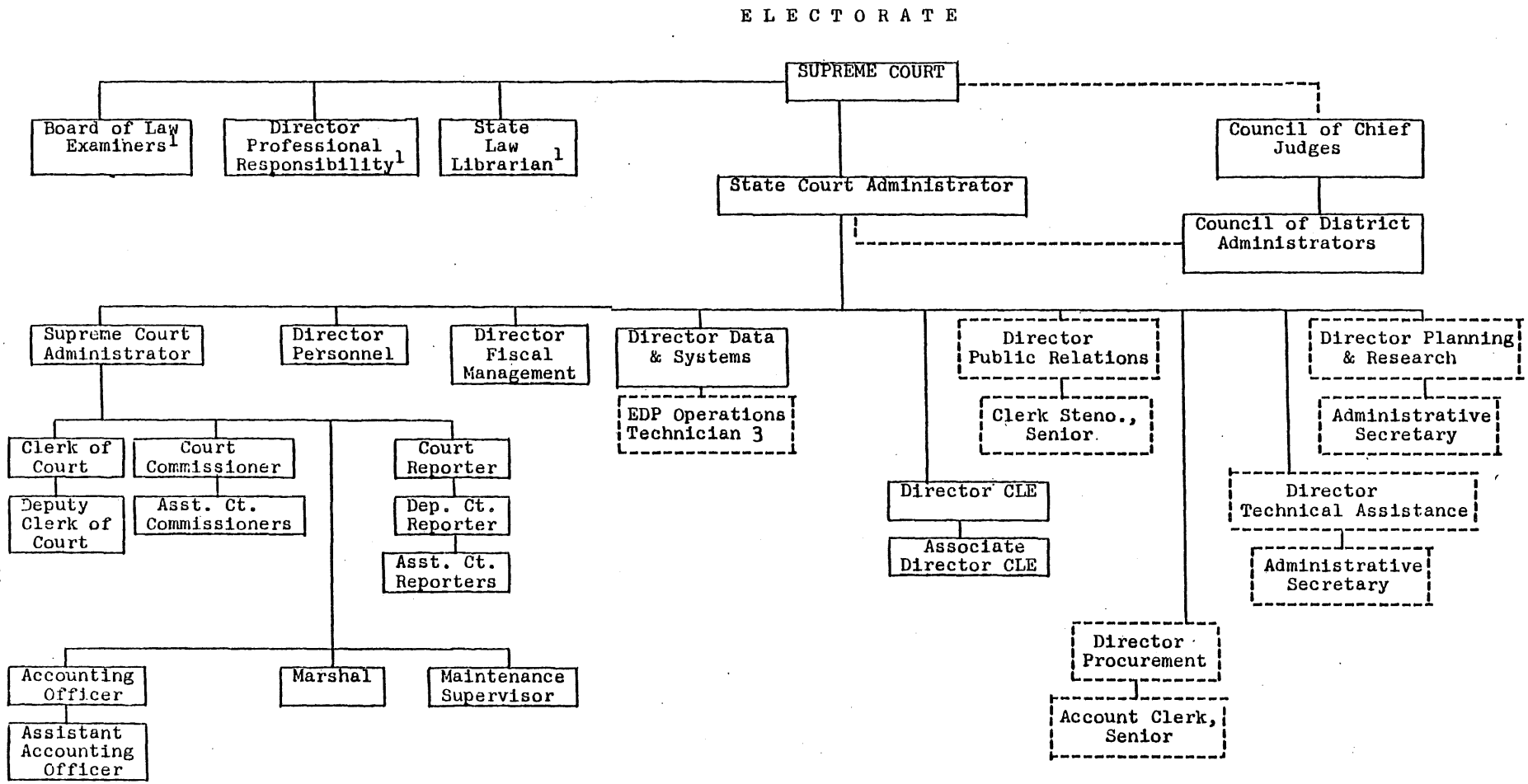
CHART TWO



[1]Separate Budget

PROPOSED PHASE ONE ADMINISTRATIVE STRUCTURE OF THE MINNESOTA COURT SYSTEM

CHART THREE[2]



[1]Separate Budget
[2]All but the new Phase Two clerical, secretarial and part-time positions have been left off Chart Three for the purposes of clarity; however, they are the same as those appearing in Chart Two.

PROPOSED PHASE TWO ADMINISTRATIVE STRUCTURE OF THE MINNESOTA COURT SYSTEM

accounting procedures and systems throughout the state.

Consultants Montague, Gainey and Pettigrew indicated that one reason the courts are having such a difficult time meeting their obligations today is that they have not utilized the planning process. Comprehensive planning for the courts has been recognized on a national basis as a top priority need. LEAA funding is available to support planning and research activities, and the consultants propose that such a unit be established for the State Court Administrator's office.

Under the plan proposed by them, management of the system would be at the local level, and they did not anticipate that the State Court Administrator would be directly involved in trial court operations. The consultants felt, however, that there are needs for assistance at the local level, and they propose that there be established a technical assistance staff in the State Court Administrator's office to fill this need. Each passing day sees the development of new systems and new technology which might be put to use in the courts area. The consultants anticipate a small staff of experts available to provide assistance, upon request, to the various courts around the state. This team might include a statistician, a records specialist, a communications specialist, and others who would maintain proficiency in developing technology and be available to advise the judges, court administrators, clerks and others at the trial court level who need technical assistance.

Mr. Montague et al. felt a data and systems management section was an obvious need. As a State Judicial Information System project is already well underway in the Minnesota court system, they thought it reasonable to assume that computers would be utilized in the major trial courts and at the state level.

Since the personnel and fiscal management responsibilitities are placed upon the State Court Administrator's office by the Select Committee Bill, the consultants thought it reasonable to assume that the Legislature will authorize funding for these two staffs. With respect to the other increased staffing in the Administrator's office, they pointed out two available options. Number one would be to seek legislative funding. The other alternative would be to seek LEAA grants. There has been considerable pressure applied to LEAA to require increased funding for the courts. The consultants felt it reasonable to assume that all of the necessary initial funding could be secured through LEAA grants. The 1977 Legislature could be asked to assume some of the funding, and then the 1979 Session can be expected to assume the remaining funding responsibility

d. Priorities

Consultants Montague, Gainey and Pettigrew recommend the following priority listing of Phase I items:

(1) Establishment of the position of district administrator in each of the ten districts. Where necessary, these could be employed initially with LEAA funds.

(2) Establishment of the office of chief judge of the district.

(3) Establishment of the Council of Chief Judges.

(4) Establishment of the Council of District Administrators.

(5) Expansion of the staff of the State Court Administrator. Priorities for this expansion would be —
(a) personnel management;
(b) fiscal management; and
(c) data and systems management.

(As indicated above, the judicial education process is not a new function but will simply require appropriate assignment within the office.)

The Committee, having concurred earlier in this report with the recommendation of the consultants concerning the creation of the Council of Chief Judges and the Council of District Administrators, recommends the following as priorities:

(1) Establishment of the office of chief judge of the district.

(2) Establishment of the position of district administrator in each of the ten districts. Where necessary, these could be employed initially with LEAA funds.

(3) Expansion of the staff of the State Court Administrator. Priorities for this expansion would be—
(a) personnel management;
(b) fiscal management; and
(c) data and systems management.

3. Conclusion.

The consultants concluded by saying they had concentrated upon the mechanics of establishing an institutional setting for interaction among the judges and administrators at the various levels in the Minnesota Judicial Department to the virtual exclusion of specification of duties which should be performed by the various persons. They adopted this course because the Select Committee Bill was explicit in assigning the necessary duties to the administrative judges and court administrators at the various levels. They felt their action also comports with the prevailing philosophy, both judicial and political, in Minnesota of placing the major management responsibility at the local level. Their recommendations also provide just enough limited authority at the State Court Administrator level to enable the office to discharge its responsibility for executing statewide policy for the Supreme Court and the Council of Chief Judges. The consultants felt if the Select Committee Bill were enacted in its present form and the organizational suggestions contained in their report followed, the State of Minnesota would develop an enviable system for court management.

The Committee, after reviewing the second-year consultants' proposals for accomplishing effective administrative organization, endorses the concept of a Council of Chief Judges and a Council of District Administrators both of which would enhance grass-roots participation in administrative problem-solving and improve communication among all levels of the court system. The Committee further recommends, in order of their priority: the establishment of the office of chief judge of the district, the establishment of the position of district administrator in each of the ten judicial districts and expansion of the staff and services of the State Court Administrator with priority placed on personnel, fiscal and data and systems management positions.

The Committee feels that this combination of expertise, organization and communication will produce sound management within the state's courts and will enable court personnel to render a higher quality of justice and service to the people of Minnesota.

III. FISCAL IMPACT OF RECOMMENDATIONS

The staff found through the examination of A Study of the Financial Aspects of the Minnesota Court System by Arthur Young and Company, A Fiscal Review of the 1975 Legislative Session, Minnesota State Senate, 1975, and other sources that in 1974 state expenditures for the Supreme Court, the existing Office of the State Court Administrator, the Judicial Council and the District Courts were an estimated $3,590,413. The total expenditures for the State of Minnesota in 1974 were $2,780,101,000, as reported in State Government Finances in 1974, U.S. Department of Commerce Bureau of the Census, p. 11.

The administrative system proposed by the consultants, funding the ten district administrator positions and the additional staff in the State Court Administrator's office, would increase the cost to the State of Minnesota (at 1974 salaries) by an estimated $664,620.[11] This amount when added to the previous total of $3,590,413 would increase the total state expenditure for the court system $4,255,033. The positions, their estimated salaries and position descriptions are all included in the appendices to this report.

The implementation of Phase II of the consultants' report would further increase the cost of the judicial system to the state by approximately $202,276 which when combined with the earlier figure would total $4,457,309.

If, ultimately, the entire cost of the court system were borne by the state, the following costs and revenues currently the responsibility of the counties must be considered. In 1974 the 87 counties in Minnesota spent approximately $30,133,940 on courts. The counties received during 1974 revenues of $10,321,547. The counties spent $19,812,393 in excess of what they received. Presumably were the state to become responsible for financing the court system, the expenses as well as the receipts would pass to the state. The $19,812,393 would then be added to the previously established expense of $4,457,309 for a total of $24,269,702. This estimated $24,269,702 might be reduced if the court revenues collected by

11 Please note that this figure is for ten new positions and does not contain the expenditure figures of any existing positions.

the counties and passed through to the municipalities and the state were received by the state and credited to the court system. These funds amounted to $8,369,383 in 1974. If they were collected by the state and applied to the court system, the total cost of the system could conceivably be reduced to $15,900,319.

All of the figures discussed in this section are approximate totals, for audited figures in these classifications were not available. They do, however, indicate that were Minnesota to go to a fully state-funded court system, the cost to the state, whether $24,269,702 or $15,900,319, would be but .86 or .57 percent — both less than one percent of the total state budget.

REVISED SELECT COMMITTEE BILL

A bill for an act

relating to courts; providing for certain reorganization of the court system in the state; amending Minnesota Statutes 1974, Sections 2.722; 2.724; 15A.083, Subdivision 1; 480.15, by adding subdivisions; 480.18; 484.08; 484.66, Subdivision 2; 485.01; 487.01, Subdivisions 3 and 6; 487.03, Subdivisions 1 and 4; 488A.01, Subdivision 10; 488A.12, Subdivision 5; 525.04; 525.081; and Chapter 480, by adding a section; repealing Minnesota Statutes 1974, Sections 15A.083, Subdivision 2; 484.05; 484.09 to 484.18; 484.28; 484.34; 487.05; 488A.021, Subdivisions 7 and 8; 488A.19, Subdivisions 8, 9 and 10; Chapters 488; 530; 531; 532 and 633.

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

Section 1. Minnesota Statutes 1974, Section 2.722, is amended to read:

2.722 [JUDICIAL DISTRICTS.] Subdivision 1. Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts two or more judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, LeSueur, McLeod, Scott, and Sibley; five judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; 12 judges;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; six judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;

4. Hennepin; 19 judges;

5. Blue Eartn, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; five judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; six judges;

7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; four judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, and St. Cloud;

8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin; three judges; and permanent chambers shall be maintained in Morris, Montevideo, and Willmar;

9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnomen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; six judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, and International Falls;

10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; six judges; and permanent chambers shall be maintained in Anoka,

Stillwater, and such other places as may be designated by the chief judge of the district.

Subd. 2. Except for the judicial districts composed of Ramsey and Hennepin counties, the supreme court with the advice of the judicial council or the judicial conference held pursuant to section 480.18 may alter the boundaries or change the number of judicial districts provided in subdivision 1.

Sec. 2. Minnesota Statutes 1974, Section 2.724, is amended to read:

2.724 [CHIEF JUSTICE OF SUPREME COURT, DUTIES.] Subdivision 1. When public convenience and necessity require it, the chief justice of the supreme court may assign any judge of ~~the district~~ any court to serve and discharge the duties of judge of any other ~~district~~ court in a judicial district not his own at such times as the chief justice may determine. The transferred judge shall be subject to the assignment powers pursuant to section 19 of the chief judge of the judicial district to which the judge was transferred.

Subd. 2. To promote and secure more efficient administration of justice, the chief justice of the supreme court of the state shall supervise and coordinate the work of the ~~district~~ courts of the state. The supreme court may provide by rule that the chief justice not be required to write opinions as a member of the supreme court. Its rules may further provide for it to hear and consider cases in divisions, and it may by rule assign temporarily any retired justice of the supreme court or one district judge at a time to act as a justice of the supreme court. Upon the assignment of a district judge to act as a justice of the supreme court a district judge previously acting as a justice may continue to so act to complete his duties. Any number of justices may disqualify themselves from hearing and considering a case, in which event the supreme court may assign temporarily a retired justice of the supreme court or a district judge to hear and consider the case in place of each disqualified justice. At any time that a retired justice is acting as a justice of the supreme court under this section, he shall receive, in addition to his retirement pay, such further sum, to be paid out of the general fund of the state, as shall afford him the same salary as an associate justice of the supreme court.

~~Subd. 3. When public convenience and necessity require it, the chief justice of the supreme court may assign any municipal judge of the state to serve and discharge the duties of a municipal judge in any other municipality not his own, at such times as the chief justice may determine. Any municipality so served by a municipal judge other than its own shall pay such judge all sums for travel, meals, lodging and communications necessarily paid or incurred by him as a result of such assignment together with the per diem payment specified for a special judge of a municipal court by section 488.22, Subdivision 1.~~

Subd. ~~4~~ 3. The chief justice of the supreme court may assign a retired justice of the supreme court to act as a justice of the supreme court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of the district court to act as a judge of the district court in any judicial district or any other court except the supreme court. The chief justice may assign any other retired judge to act as a judge of any court whose jurisdiction is not greater than the jurisdiction of the court from which he retired. Unless otherwise provided by law, a

judge acting pursuant to this subdivision shall receive pay and expenses in the amount and manner provided by law for actively serving retired district judges. A judge acting pursuant to this subdivision or any other law providing for the service of retired judges shall be paid only his expenses for service performed while still receiving the full pay of the office from which he retired.

Subd. 4. The chief justice shall exercise general supervisory powers over the courts in the state, including:

(a) Supervising the courts' financial affairs, programs of continuing education for judicial and nonjudicial personnel and planning and operations research;

(b) Serving as chief representative of the courts and as liaison with other governmental agencies and the public; and

(c) Supervising the administrative operations of the courts. The chief justice may designate individual judges and committees of judges to assist him in the performance of his duties.

Sec. 3. Minnesota Statutes 1974, Section 15A. 083, Subdivision 1, is amended to read:

15A. 083 [SALARIES FOR POSITIONS IN THE JUDICIAL BRANCH.] Subdivision 1. [ELECTIVE JUDICIAL OFFICERS.] The following salaries shall be paid annually to the enumerated elective judicial officers of the state:

Chief justice of the supreme court ~~$40,000~~

110 percent of the salary paid an associate justice of the supreme court

Associate justice of the supreme court ~~36,000~~

110 percent of the salary paid a trial court judge

District, county, probate and municipal judge ~~32,000~~ $45,000

~~Each district judge shall receive $1,500 additional annually from each county in his district having a population of 200,000 or more. When any district judge shall preside upon the trial or hearing of any cause outside of his resident district wherein the district judge receives a larger salary he shall receive an additional compensation during the period of such trial or hearing the difference between his fixed compensation and the compensation of the district judge of the district where he has been so engaged, to be paid by the county wherein the trial or hearing was held upon certification of the senior resident district judge thereof~~ The salaries of justices and district, county, probate and municipal judges shall be paid by the state. Counties may supplement the salaries of any judges with the approval of the legislature. In supplementing the salaries of any judges, counties may consider the differences in cost of living within the state. All of the salaries for judicial branch positions cited in M.S. 15A. 083, Subd. 1, shall be subject to the same percentage cost of living increases granted professional, or Schedule "A," state civil service classified employees pursuant to M.S. 43.12, Subd. 10.

Sec. 4. Minnesota Statutes 1974, Section 480.15, is amended by adding a subdivision to read:

Subd. 10a. The court administrator shall prepare standards and procedures for the recruitment, evaluation, promotion, in-service training and discipline of all personnel in the court system other than judges and judicial officers.

Sec. 5. Minnesota Statutes 1974, Section 480.15, is amended by adding a subdivision to read:

Subd. 10b. The court administrator shall promulgate and administer uniform requirements concerning records, budget and information systems and statistical compilation and controls.

Sec. 6. Minnesota Statutes 1974, Section 480.18, is amended to read:

480.18 [CONFERENCE OF JUDGES; JUDGE'S EXPENSES.] At least once each year the ~~supreme court of this state may provide by rule or special order for the holding in this state of an~~ chief justice shall call an annual conference of the judges of the courts of record of this state, and of members of the respective judiciary committees of the legislature, and of invited members of the bar, for the consideration of matters relating to judicial business, the improvement of the judicial system, and the administration of justice. Each judge attending such annual judicial conference shall be entitled to be reimbursed for his necessary expenses to be paid from state appropriations made for the purposes of sections 480.13 to 480.20.

Sec. 7. Minnesota Statutes 1974, Chapter 480, is amended by adding a section to read:

[480.22] The supreme court may establish residency and chambers requirements for judges of all courts in the state.

Sec. 8. Minnesota Statutes 1974, Section 484.08, is amended to read:

484.08 [DISTRICT COURTS TO BE OPEN AT ALL TIMES.] The district courts of the state shall be deemed open at all times, except on legal holidays and Sundays, for the transaction of ~~such~~ all business as may be presented ~~including the issuance of writs and processes, the hearing of matters of law in pending actions and proceedings, and the entry of judgments and decrees therein; and, in addition to the general terms appointed by law to be held, which may be adjourned from time to time, the judge of the district court, or one thereof in districts of more than one judge, may by order filed with the clerk, convene the court in actual session during the vacation period on a date named in the order, for the trial of both civil actions involving public interest and criminal actions, whenever in his judgment public interests will thereby be promoted. When so convened, the court may, by order entered in the minutes by the clerk, direct the issuance of special venires for grant and petit juries, returnable on a named date, for the performance of such duties as may be submitted by the court in the usual course of procedure. Civil actions involving public interests may be noticed for trial at an adjourned sitting of such term occuring more than eight days after the date of calling same, and informations by the county attorney charging the commission crimes within the county may, as authorized by law, be presented at such terms, and any such information then presented and filed and all indictments then returned by the special grand jury shall be proceeded with by the court in all respects in harmony with the law applicable to other cases and other terms of the court. The judge of the district court may also, by order filed with theclerk, appoint special terms in any county of the district for the hearing of matters of law~~. The terms of the district courts shall be continuous.

Sec. ~~10~~ 9. Minnesota Statutes 1974, Section 485.01, is amended to read:

485.01 [APPOINTMENT; BOND; DUTIES.] ~~There shall be elected in each~~

~~county~~ A clerk of the district court ~~who~~ for each county within the judicial district shall be appointed by a majority of the district court judges in the district upon recommendation of the chief judge of the judicial district who shall select a candidate from nominations submitted by the district administrator. The clerk before entering upon the duties of his office, shall give bond to the state, to be approved by the county board, in a penal sum of not less than $1,000 nor more than $10,000 conditioned for the faithful discharge of his official duties. In the second judicial district the amount of such bond shall be $10,000 and in the fourth judicial district the amount of such bond shall be $25,000, which bond, with his oath of office, shall be filed for record with the register of deeds. Such clerk shall perform all duties assigned him by law and by the rules of the court. He shall not practice as an attorney in the court of which he is the clerk.

Section ~~9~~ 10. Minnesota Statutes 1974, Section 484.66, Subdivision 2, is amended to read:

Subd. 2. The duties, functions and responsibilities which have been heretofore and which may be hereafter required by statute or law to be performed by the clerk of district court shall be performed by the district court administrator, whose office is appointed by the district court judges of the fourth judicial district upon recommendation of the chief judge of the judicial district who shall select a candidate from nominations submitted by the district administrator. The district court administrator, subject to the approval of a majority of the judges of the district court, fourth judicial district, shall have the authority to initiate and direct any reorganization, consolidation, reallocation or delegation of such duties, functions or responsibilities for the purpose of promoting efficiency in county government, and may make such other administrative changes as are deemed necessary for this purpose. Such reorganization, reallocation or delegation, or other administrative change or transfer shall not diminish, prohibit or avoid those specific duties required by statute or law to performed by the clerk of district court.

Sec. 11. Minnesota Statutes 1974, Section 487.01, Subdivision 3, is amended to read:

Subd. 3. The following probate and county court districts are established: Kittson, Roseau and Lake of the Woods; Marshall, Red Lake and Pennington; Norman, Clearwater and Mahnomen; Cass and Hubbard; Wadena and Todd; Mille Lacs and Kanabec; Wilkin, Big Stone and Traverse; Swift and Stevens; Pope, Grant and Douglas; Lac qui Parle, Yellow Medicine and Chippewa; Lincoln and Lyon; Murray and Pipestone; Jackson and Cottonwood; Rock and Nobles; Dodge and Olmsted; Lake and Cook; Aitkin and Carlton; Sibley, Meeker and McLeod; Martin, Watonwan and Faribault; Houston and Fillmore; Nicollet and Le Sueur; Winona and Wabasha; Pine, Isanti and Chisago; Sherburne, Benton and Stearns.

A combined county court district may be separated into single county courts by the ~~concurrence of the county boards of the respective counties affected~~ supreme court. Vacancies in the office of judge created by such a separation shall be filled in the manner herein provided for the selection of other county court judges.

The single county court districts so created by such separation shall each be entitled to one judge, subject to the provisions of subdivision 5, clause (5), provided,

however, that if the number of judges of the combined county court district exceeds the number of counties, then, upon separation into single county court districts, the county having the largest population determined by the last United States census shall be entitled to two judges and in the event there are more judges than counties remaining, the county having the next largest population determined by the last United States census shall also be entitled to two judges.

In each other county except Hennepin and Ramsey, the probate court of the single county is also the county court of the county and shall be governed by the provisions of sections 487.01 to 487.39.

Sec. 12. Minnesota Statutes 1974, Section 487.01, Subdivision 6, is amended to read:

Subd. 6. For the more effective administration of justice, the supreme court may combine two or more county court districts ~~may combine their respective county court districts~~ into a single county court district ~~by concurrence of the county boards of the respective counties affected.~~ If districts are combined, the office of a judge may be terminated at the expiration of his term and he shall be eligible for retirement compensation under the provisions of section 487.06.

Sec. 13. Minnesota Statutes 1974, Section 487.03, Subdivision 1, is amended to read:

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

Sec. 14. Minnesota Statutes 1974, Section 487.03, Subdivision 4, is amended to read:

~~Subd. 4. [CHIEF COUNTY COURT JUDGE.] If a county court district elects more than one county court judge, the chief justice of the supreme court judge of the judicial district wherein the county court district is located shall select a chief county court judge who shall serve at the pleasure of the chief justice judge and for a term of two years and who shall be responsible for assigning the work of the court except as provided in section 19.~~

Sec. 15. Minnesota Statutes 1974, Section 488A.01, Subdivision 10, is amended to read:

Subd. 10. [CONTINUOUS TERM.] The court shall be open every day, except Sundays and legal holidays. ~~The court shall hold a general term for the trial of civil actions commencing on the first Monday following Labor Day of each year and continuing until the next general term, with such adjournments as the judges may determine to be necessary and proper.~~ The term of the court shall be continuous.

Sec. 16. Minnesota Statutes 1974, Section 488A.12, Subdivision 5, is amended to read:

Subd. 5. [CONTINUOUS TERM.] The judges shall hold terms of court from time to time as necessary continuously to hear and dispose of all claims as promptly as feasible after filing.

Sec. 17. Minnesota Statutes 1974, Section 525.04, is amended to read:

525.04 [JUDGE; ELECTION, QUALIFICATIONS, BOND.] There shall be elected in each county a probate judge who shall be learned in the law, ~~except that probate judges now in office shall be considered learned in the law insofar as being eligible to continue in office and to be re-elected to same.~~ Before he enters upon the duties of his office he shall execute a bond to the state in the amount of $1,000, approved by the county board and conditioned upon the faithful discharge of his duties. Such bond with his oath shall be recorded in the office of the register of deeds. The premiums on such bond and the expenses of such recording and filing shall be paid by the county. An action may be maintained on such bond by any person aggrieved by the violation of the conditions thereof.

Sec. 18. Minnesota Statutes 1974, Section 525.081, is amended to read:

525.081 [PRACTICE OF LAW.] Subdivision 1. ~~Notwithstanding any special law to the contrary, in all counties of this state now or hereafter having a population of less than 250,000, the yearly salaries to be paid to the judges of probate court shall be as follows:~~

~~In counties having a population of less than 5,000, the sum of $7,500.~~

~~In counties having a population of 5,000 and less than 10,000, the sum of $8,000.~~

~~In counties having a population of 10,000 and less than 15,000, the sum of $9,000.~~

~~In counties having a population of 15,000 and less than 20,000, the sum of $10,250.~~

~~In counties having a population of 20,000 and less than 25,000, the sum of $13,500.~~

~~In a county where the population since 1960 has increased to over 26,000, the sum of $16,500.~~

~~In counties having a population of 25,000 and less than 250,000, the sum of $21,000.~~

~~Subd. 2. In any county under 25,000 population, where the probate court has and exercises municipal court jurisdiction and has heard and disposed of not less than 50 nor more than 150 municipal cases during the preceding July 1 to July 1 year, the probate judge shall receive an additional sum of $1,000 annually; in any county wherein the judge of probate court shall have heard and disposed of not less than 150 nor more than 300 municipal court cases during the preceding July 1 to July 1 year, the probate judge shall receive an additional sum of $1,500 annually. In any county wherein the judge of probate shall have heard and disposed of 300 or more municipal court cases during the preceding July 1 to July 1 year, the probate judge shall receive an additional sum of $2,000 annually. The maximum amount of additional compensation received by any probate judge herein referred to under this subdivision shall not exceed $2,000 annually. No case involving a juvenile traffic violation shall be included in the computation of the number of cases heard and disposed of by any municipal court for additional compensation. The probate judge shall file monthly a certificate to that effect with the county auditor and a like certificate annually with the court administrator showing the number of cases filed and disposed of during the preceding July 1 to July 1 period.~~

~~Subd. 3. In any county under 25,000 population, where the probate court has~~

~~adoption or diverse jurisdiction, the probate judge shall receive an additional sum of $1,000 annually.~~

~~Subd. 4. In any county having a population of 25,000 and less than 100,000 wherein the probate court does not have adoption or diverse jurisdiction the probate judge shall receive $2,000 less than the sum provided in subdivision 1 hereof.~~

~~Subd. 5. The salary fixed by the total of the sums provided under subdivisions 1, 2, 3 and 4 shall not act to reduce the salary of any probate judge now serving.~~

~~Subd. 6. The salary herein provided shall be paid by the county in equal monthly installments and be in full compensation for all services rendered by him as judge of both probate and juvenile court and in lieu of all fees and emoluments provided by law for official services, except fees for performing marriages and except compensation for services as a member of the Minnesota corrections authority. All fees collectible by and paid to the probate court, except as herein provided, shall be turned over to the general revenue fund of the county.~~

~~Subd. 7.~~ No judge of the probate court in any county having a population of 25,000 or more, shall practice as an attorney or counselor at law, nor shall he be a partner of any practicing attorney in the business of his profession.

Subd. ~~8~~ 2. No judge of the probate court shall practice law in any probate court in the state of Minnesota nor shall he serve as an appraiser in any estate pending for probate in any probate court.

~~Subd. 9. All references herein to population are to the latest decennial federal census provided that no changes due to any subsequent decennial census shall be effective until July 1 following the first regular legislative session subsequent to the year in which said decennial census was taken.~~

Sec. 19. [CHIEF JUDGES.] Subdivision 1. [APPOINTMENT.] In each judicial district the supreme court shall after consultation with the judges of the district appoint a chief judge who ~~may~~ shall be a full-time, non-retired judge of county, district, municipal or probate court and who shall serve at the pleasure of the supreme court.

Subd. 2. [ADMINISTRATIVE AUTHORITY.] In each judicial district the chief judge, subject to the authority of the chief justice, shall exercise general administrative authority over all courts within the judicial district. The chief judge shall make assignments of judges, including himself, to all cases within the judicial district; and, in order to more efficiently use judicial manpower, the chief judge may at his discretion make assignment of a county court judge to hear district court matters and of a district court judge to hear county court matters. A judge aggrieved by an assignment may appeal the assignment to the supreme court.

Subd. 3. [BIMONTHLY MEETINGS; JUDICIAL CONFERENCE AGENDA.] The chief judges shall meet at least bimonthly for the consideration of problems relating to judicial business and administration. After consultation with the judges of their judicial district the chief judges shall prepare in conference and submit to the chief justice a suggested agenda for the judicial conference pursuant to section 480.18.

Subd. 4. [JUDGES' MEETINGS.] The chief judge shall convene a conference at least twice a year of all judges of the judicial district to consider administrative

matters and rules of court and to provide advice and counsel to the chief judge.

Sec. 20. [DISTRICT ADMINISTRATOR.] Subdivision 1. [APPOINTMENT; TERM.] A district administrator shall be appointed for each of the judicial districts by the chief judge with the advice and approval of the judges of that judicial district and shall serve at the pleasure of the chief judge. A district administrator may serve more than one judicial district.

Subd. 2. [STAFF.] The district administrator shall have such deputies, assistants and staff as the judges of the judicial district deem necessary to perform the duties of the office.

Subd. 3. [DUTIES.] The district administrator shall assist the chief judge in the performance of his administrative duties and shall perform any additional duties that are assigned to him by law and by the rules of the court.

Subd. 4. [LIAISON.] The district administrator shall assist the supreme court, the chief justice, the state court administrator, the chief judge of the judicial district and other local and state court personnel in:

(a) Development of and adherence to standards and procedures for the recruitment, evaluation, promotion, in-service training and discipline of all personnel in the court system, other than judges and judicial officers;

(b) Development of and adherence to uniform requirements concerning records, budget and information systems, and statistical compilations and controls;

(c) Identification of calendar management problems and development of solutions;

(d) Research and planning for future needs;

(e) Development of continuing education programs for judicial and nonjudicial personnel;

(f) Serving as liaison with local government, bar, news media and general public;

(g) Establishment of a court community relations program including identification of court related public information needs and development of a grievance procedure to settle administrative complaints not related to a specific judicial determination; and

(h) Communication of policy, procedure, relevant rulings, legislative action, needs, developments and improvements among county, district and state court officials.

Subd. 5. The district administrator shall serve as secretary for meetings of the judges of the judicial district.

Sec. 21. Notwithstanding sections 487.03, subdivision 1 and 525.04 a county or probate judge not learned in the law may continue in office until the expiration of his present term.

Sec. 22. Minnesota Statutes 1974, Sections 15A.083, Subdivision 2; 484.05; 484.09; 484.10; 484.11; 484.12; 484.13; 484.14; 484.15; 484.16; 484.17; 484.18; 484.28; 484.34; 487.05; 488A.021, Subdivisions 7 and 8; 488A.19, Subdivisions 8, 9 and 10; Chapters 488; 530; 531; 532 and 633, are repealed.

Appendix B

CONSULTANT

REPORT ON

ADMINISTRATIVE STRUCTURE:

Emphasis on the Office of State Court Administrator

Bert M. Montague
Director
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North Carolina

I. INTRODUCTION

A. PURPOSE OF CONSULTANCY

In the Fall of 1975, the Select Committee on the Judicial System of Minnesota employed consultants to review the progress of the court reform movement in Minnesota, particularly with respect to administrative management of the system, and to develop a plan for the implementation of an effective management system for the courts. Engaged in the task were Judge Alfred Sulmonetti of the Circuit Court, Portland, Oregon; Judge Frederick Woleslagel of the District Court, Lyons, Kansas; Mr. Ellis D. Pettigrew, Court Administrator for the State of South Dakota; Mr. James A. Gainey, Deputy State Judicial Administrator for the State of Louisiana; and Bert M. Montague, Court Administrator for the State of North Carolina.

B. METHODOLOGY

The consultants participated with the Select Committee staff in the design of questionnaires, which were submitted to the Chief Justice and Associate Justices of the Supreme Court, Supreme Court staff members, State court administrative staff personnel, trial court judges, and trial court administrators. Following completion and summary of responses to the questionnaires, on-site visits were made and the consultants had the opportunity of interviewing key members of each group to whom questionnaires had been submitted. Thus, the consultants have had the opportunity of studying the constitutional and statutory provisions of the State relating to the court system, reviewing surveys conducted by the National Center for State Courts and studies made by the Arthur Young Company, and the opportunity to receive written and oral input from the officials responsible for making the Minnesota court system run

We have approached the task, not from the viewpoint of proposing to superimpose upon the Minnesota Judicial Department some ideal management system designed in a vacuum, but instead to ascertain what workable system would be acceptable to the responsible authorities in Minnesota. This report represents the combined views of the consultants, reached as a result of the study conducted under those constraints.

II. ANALYSIS OF EXISTING SITUATION

A. PROBLEM

Although the State of Minnesota has an adequate system for administration of the Supreme Court, there is no system for statewide management of the Judicial Department. The need for change was long ago recognized in the movement to reorganize the courts and in the study and recommendations of the Select Committee on the Judicial System. A major shortcoming is the lack of dependable data on the caseload. We recognized early in the study that there was sufficient documentation of:

(1) The absence of management at the trial court level;
(2) divergent and inefficient administrative, fiscal and business practices, forms,

methods and systems in the different counties;
(3) insufficient staffing for court administration;
(4) unequal funding; and
(5) varying personnel practices

to mandate a reexamination of the management structure. These conclusions are supported by the National Center surveys, the Arthur Young studies, the special committee findings, and the key group responses. It is made apparent by all these sources that uniform policies and goals, and priorities for the court system are not being set by the Judicial Department leadership.

B. EXISTING SYSTEM

1. Structure

An analysis of the present system for administration in Minnesota was necessary before a chart for future development could be drawn. In reviewing the present system and making future projections, we remembered the philosophy expressed by the Select Committee in its interim report to the effect that the Committee would study recommendations made by the American Bar Association and other national groups and would review court reform efforts in other states, but the intent of the deliberations would be to find problems in the Minnesota court structure and recommend changes to meet those specific needs. Also, we were mindful of Chief Justice Sheran's preference for decentralized control and participatory management. Within these constraints, we considered certain generally accepted basic requirements of a court system and examined the Minnesota system to see if it lacked any of these.

Assuming as a goal the delivery of fair and equal justice with a reasonable degree of efficiency and dispatch, we sought to determine the necessary requirements in the court management area to produce these results. The first need is for a manageable structure. Since the 1971 amendment substituting the county court for the multitude of previously existing lower courts, the Minnesota system has been structured in manageable proportions. Unification in the ABA sense might be a refinement over the two-tiered trial court system, but it is not essential to effective management.

2. Policy-Making

The second essential is placement of necessary management authority. This authority has been fixed with respect to the district court by the Minnesota statutes.

> (M.S. 2.724, Subd. 2. To promote and secure more efficient justice, the chief justice of the supreme court of the state shall supervise and coordinate the work of the district courts of the state.)

It will appropriately be made applicable to all the courts by the Select Committee bill. The amended statute will require the Chief Justice to supervise and coordinate the work of all the courts of the State. The Chief Justice possesses the necessary authority to supervise and direct the Court Administrator and his staff.

(M.S. 480.15 POWERS AND DUTIES. Subdivision 1. The court administrator shall, under the supervision and direction of the chief justice, have the powers and duties prescribed by this section.)

A third necessity is for administrative rule-making authority in the Supreme Court. It would appear from responses made by the members of the Supreme Court that this authority now exists.

(M.S. 480.05 POWER; RULES. The supreme court shall have all the authority necessary for carrying into execution its judgments and determinations, and for the exercise of its jurisdiction as the supreme judicial tribunal of the state, agreeable to the usages and principles of law. [Emphasis added. This passage may be applicable.]

As an aid in policy-making, the Court has the Judicial Council.

(M.S. 483.01 CREATION. A judicial council is hereby created for the continuous study of the organization, rules and methods of procedure and practice of the judicial system of the state, and of all matters relating to the administration of said system and its several departments.)

Under the Select Committee bill, it will have authority to appoint a Chief Judge for each judicial district, who will have effective administrative authority.

(Select Committee Bill, Section 19, Subdivision 1. [APPOINTMENT.] In each judicial district the supreme court shall appoint a chief judge who may be a judge of county, district, municipal or probate court.

Subd. 2 [ADMINISTRATIVE AUTHORITY.] In each judicial district the chief judge, subject to the authority of the chief justice, shall exercise general administrative authority over all courts within the judicial district. The chief judge shall make assignments of judges to all cases within the judicial district; and, in order to more efficiently use judicial manpower, the chief judge may at his discretion make assignment of a county court judge to hear district court matters and of a district court judge to hear county court matters. A judge aggrieved by an assignment may appeal the assignment to the supreme court.)

The Chief Justice has assignment authority adequate to permit the unfettered transfer of judges necessary to allocate manpower where it is needed.

(M.S. 480.16 DISTRIBUTION OF WORK OF COURTS; DUTY OF JUDGES TO COMPLY WITH CHIEF JUSTICE'S DIRECTION. The chief justice shall consider all recommendations of the court administrator for the assignment of judges, and, in his discretion, direct any judge whose calendar, in the judgment of the chief justice, will permit, to hold court in any county or district where need therefor exists, to the end that the courts of this state shall function with maximum efficiency, and that the work of other courts shall be equitably distributed. The supreme court may provide by rule for the enforcement of this section and section 480.17.)

3. Administration

Fourth, it is axiomatic that management requires people. Day-to-day management of the system, the process by which the policies of the Supreme Court or other policy-making body are executed, requires statutory authority and an adequate professional

administrative staff. The present administrative statute was apparently copied from another state without any real determination on the part of the General Assembly that it would be followed in Minnesota. It should be noted that the statute in its present form was passed in 1963 when Minnesota did not purport to have a statewide court administrator, but instead had an administrative assistant to the Chief Justice. During the 1971 reform amendment, the title "Court Administrator" was substituted for administrative assistant, but no change was made in the substance of the act. The statute gives the Court Administrator authority to examine, study, report, and recommend, but does not give him the necessary authority to implement policies and practices and to require compliance.

(M.S. 480.15 POWER AND DUTIES. Subdivision 1. The court administrator shall, under the supervision and direction of the chief justice, have the powers and duties prescribed by this section.

Subd. 2. The court administrator shall examine the administrative methods and systems employed in the offices of the judges, clerks, reporters, and employees of the court and make recommendations, through the chief justice for the improvement of the same.

Subd. 3. The court administrator shall examine the state of dockets of the courts and determine the need for assistance by any court.

Subd. 4. The court administrator shall make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance.

Subd. 5. The court administrator shall collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice and to the respective houses of the legislature to the end that proper action may be taken in respect thereto.

Subd. 6. The court administrator shall prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto.

Subd. 7. The court administrator shall collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith.

Subd. 8. The court administrator shall obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to the supreme court of this state and to the respective houses of the legislature.

Subd. 9. The court administrator shall formulate and submit to the judicial council of this state and to the respective houses of the legislature recommendations of policies for the improvement of the judicial system.

Subd. 10. The court administrator shall formulate and submit annually, as of February 1, to the chief justice and the judicial council, a report of the activities of the court administrator's office for the preceding calendar year.

Subd. 11. The court administrator shall attend to such other matters consistent with the powers delegated herein as may be assigned by the supreme court of this state.)

This deficiency will apparently be cured by Section 5 of the Select Committee bill.

(Select Committee Bill, Section 5. Minnesota Statutes 1974, Section 480.15, is amended by adding a subdivision to read:

Subd. 10b. The court administrator shall promulgate and administer uniform

requirements concerning records, budget and information systems and statistical compilation and controls.)

Another interesting subdivision of the existing statute is the one that requires the Administrator to prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system (see M.S. 480.15, Subd. 6, supra). This was apparently passed without any serious consideration given to statewide financing, which it implies. The Minnesota Court Administrator has done an excellent job of administering the affairs of the Supreme Court and performing the duties assigned to him by the Chief Justice. However, he has been given neither authorization nor staffing and facilities for statewide management of the court system.

To permit effective management, the Court Administrator should have authorization and staffing for the following purposes:

1. fiscal management
2. personnel administration
3. clerical supervision
4. comprehensive planning
5. continuing education
6. systems development
7. procurement

With respect to the first requirement, partial statutory authorization already exists (see M.S. 480.15, Subd. 6-7, supra). However, funding has been limited to operating expenses of the Supreme Court and salaries of the district court judges, and the Administrator has had no authority to establish accounting procedures except with respect to his own budget. The first step towards improvement should be State funding for salaries and expenses of all judges, and that provision is made in the Select Committee bill.

(Select Committee Bill, Section 3. Minnesota Statutes 1974, Section 15A.083, Subdivision 1, is amended to read:

15A.083 [SALARIES FOR POSITIONS IN THE JUDICIAL BRANCH.] Subdivision 1. [ELECTIVE JUDICIAL OFFICERS.] The following salaries shall be paid annually to the enumerated elective judicial officers of the state:

Chief justice of the supreme court	$40,000
Associate justice of the supreme court	36,500
District, county, probate and municipal judge	32,000

The salaries of justices and district, county, probate and municipal judges shall be paid by the state.)

State financing and unitary budgeting are optional features which might be considered at a later date.

The Court Administrator under the present statute is authorized to prepare and submit budget estimates (see M.S. 480.15, Subd. 6, supra). Added to this should be power to authorize expenditures of these appropriated funds. His fiscal management authority should not be limited to the Administrative Office. He should be authorized to prescribe uniform accounting systems and methods for the clerks' offices and to conduct in-house audits to see that his policies are being followed. Apparently that authority is granted in

the Select Committee bill (see Select Committee Bill, Section 5, supra).

Personnel administration is the next major area of need. It is not necessary that the Court Administrator become involved in the selection of personnel to be employed within the trial court structure. What is needed is authorization for him to prescribe and administer a uniform classification and pay plan for all non-judicial court personnel throughout the State. Authority in this regard also appears in the Select Committee bill.

(Select Committee Bill, Section 4. Minnesota Statutes 1974, Section 480.15, is amended by adding a subdivision to read:

Subd. 10a. The court administrator shall prepare standards and procedures for the recruitment, evaluation, promotion, in-service training and discipline of all personnel in the court system other than judges and judicial officers.)

The third area of concern is that of supervision of the district court clerk. This is one of the most important functions and it has been disregarded in the Minnesota court administrator statute (see M.S. 480.15, supra). Partial provision for this is also found in the Select Committee bill where the Administrator is given personnel control and records, budget, and information systems control (see Select Committee Bill, Sections 4 and 5, supra).

To maintain itself as a separate and independent branch of government, the Judicial Department must have its own planning capacity. The staffing necessary to conduct continuous comprehensive planning for the Judicial Department should be under the Court Administrator. At present he performs the planning function, but again is limited primarily to the Supreme Court. He should have a staff of at least two full-time persons engaged in the task if departmental planning status is to be achieved.

Continuing education is a universally recognized need within court systems. There is an effective ongoing judicial education program now in Minnesota, but for management purposes this should be a staff function of the Administrative Office. Another essential requirement is for a systems division with primary responsibility for the design and implementation of a management information system. The Court Administrator has made a beginning in this area. As one of the participating states in the State Judicial Information System Project, Minnesota has had the advantage of coordinated advanced planning by its Administrator. However, a substantially enlarged staff will be necessary to finish the design, then implement and operate the system.

To provide equality of treatment, economy and uniformity, the Court Administrator should acquire the procurement authority for the Judicial Department. This function is performed by him at present for the Supreme Court only. Space and facility acquisition, and supplies, equipment and printing should eventually be placed under his control.

C. ENDORSEMENT OF CHANGE

It appears from the responses by Supreme Court Justices to the questionnaire that members of the Minnesota Supreme Court support an expansion of the office of the State Court Administrator. The Court seemed to approve most of the generally accepted necessary functions and ranked them in the following order of priority:

1. fiscal management
2. personnel administration

3. records and systems development and management
4. intra and inter-court services
5. facility, space, and equipment management
6. planning and research
7. court / community relations
8. continuing education
9. jury / witness management

Itemized under these various functional divisions were practically every conceivable operation necessary to the establishment of an effective state court administrator's office. Thus, it appears that the Court will support statewide court administration provided there is decentralized, participatory management by administrative judges at the trial court level.

III. PROPOSED SYSTEM

A. THE SELECT COMMITTEE BILL

The consultants have concluded that a highly effective administrative management system for the courts of Minnesota is practically within the grasp of the leadership at the present time and that determination by this leadership to take the reins and move forward administratively with implementation will produce the necessary system.

Minnesota has a very distinct advantage over most of the states which have experienced court reform in that there is no apparent necessity to change the Constitution. Legislation will accomplish the purpose, and the Select Committee bill provides sufficient authorization to meet most of the requirements. Additional provision may be desirable later for closer supervision of the clerks' offices and for the procurement and supply functions. However, the basic requirements which we recommend for the Minnesota courts are provided for in the current version of Select Committee bill. Thus, the number one goal is to secure passage of this bill.

B. ADMINISTRATIVE IMPLEMENTATION

1. Advisory Councils

Our proposals are based upon the assumption that the bill, essentially in its present form, will pass. The polar star which guided us is referred to in the statement of the problem — that is, that the system must be decentralized and must involve participatory management. This leads to the two major features of our proposal: (1) The Council of Chief Judges and (2) The Council of Trial Court Administrators.

A suggested organizational chart is attached for the purpose of illustrating our plan. We propose a two-phased implementation of the new administrative management system — the first phase to be completed around June 30, 1976, and the second to be implemented as time permits during the next succeeding biennium. Again we emphasize that when the Select Committee bill passes our proposed program can be established administratively. The only possible exception to this is the administrative rule-making authority. It is our feeling that the Supreme Court has inherent power to promulgate the necessary rules. We mention this possible exception at this time so that if the Supreme Court has any

reservations about its authority in this regard and feels that additional legislation is desirable, it might propose such legislation to be included in the Select Committee bill. In this connection, it is noted that Sections 2, 19, and 20 of the Select Committee bill appear to provide legislative authorization if indeed any is necessary.

The Select Committee bill provides for the appointment of a chief judge in each judicial district by the Supreme Court. It is our proposal that these ten judges constitute the Council of Chief Judges. The bill further calls for the appointment in each judicial district of a district administrator. This professional is to be appointed by the Chief Judge of the district. We propose that the ten district administrators constitute the Council of Trial Court Administrators. Section 2 of the bill authorizes the Chief Justice to designate individual judges and committees of judges to assist him in the performance of his duties.

> (Select Committee Bill, Section 2, Subd. 4(c). Supervising the administrative operations of the courts. The chief justice may designate individual judges and committees of judges to assist him in the performance of his duties.)

It is our suggestion that the Chief Justice designate the Council of Chief Judges as his official advisory committee. That Council can in turn organize the district administrators into the Council of Trial Court Administrators.

2. Policy-Making

In the proposed management structure, the Supreme Court, as it must, stands at the head of the Judicial Department. However, this does not mean that it will be required to initiate and implement all of the administrative rules. To assist the Court with its internal administrative operations, we propose a Supreme Court Administrator. We then propose a State Court Administrator to coordinate administrative operations within the courts on a statewide basis. The State Court Administrator will, of course, provide staff services to the Supreme Court with respect to its administrative management function. However, it is not proposed that the State Court Administrator necessarily develop policy recommendations. These recommendations instead will be developed at the local trial court level by Chief Judges and the Council of Chief Judges, assisted by the Council of Trial Court Administrators. We propose that the State Court Administrator provide secretarial and staff services for both these groups and thereby furnish the necessary coordination among those Councils and the Supreme Court.

There is no magic in any particular administrative structure. What we seek to do is to place planning and management of the courts in an institutionalized setting of judicial officials. Since there are varying needs of the courts among the different districts in Minnesota, it is not anticipated that the Council of Chief Judges will recommend strict uniformity throughout the State. For example, the Council would not direct a specific calendaring system to be used in every district. Uniformity should be encouraged, and in those areas where it is workable, we feel that the mere existence of the formalized setting within which the chief judges and administrators can come together and exchange ideas will produce some degree of uniformity. Subject to the general supervisory authority of the Chief Justice and to rules of the Supreme Court, it is clear that the chief judges in concert could implement administrative practices to be followed throughout the State.

Normally, however, when a uniform rule is proposed for statewide applicability, it would be presented by the Council to the Supreme Court and left for consideration and possible promulgation by the Supreme Court. In this operation, the Supreme Court would not be directly involved on a frequent basis with the Council of Chief Judges or with the policy-making problem. Instead, it would be regularly advised by the State Court Administrator, acting as secretary for the Council, and through this coordinated arrangement there will be a steady flow of proposals going from the Council to the various courts of the State and, in necessary situations, upward to the Supreme Court for its determination.

3. Administrative Staffing

The next part of our proposal which deserves special mention is the increased staffing within the State Court Administrator's office. We propose a Director of Administrative Services and a Director of Operations. Within the administrative services section, we would place the functions of personnel, public relations, procurement, and judicial education. The procurement function will be a very limited one during Phase I of implementation. The judicial education arm is already in existence and only needs to be placed administratively in the appropriate setting. The personnel responsibility will be placed upon the Administrator by the Select Committee bill (see Select Committee Bill, Section 4, supra), and a two- or three-person staff will be required to perform this function. The need for a court information officer has been recognized, and many jurisdictions have already assigned this responsibility to a position. There is a necessity to educate the public as to the needs of, and the appropriate role and function of the courts and a court information officer is the only known source of accomplishing this objective. There does not appear to be authorization in the Select Committee bill, but the office can be established through an LEAA grant application.

The Director of Operations will have the major staffing within the State Court Administrator's office. Section 5 of the Select Committee bill provides that the Court Administrator shall promulgate and administer uniform requirements concerning records, budget and information systems and statistical compilation and controls. This language clearly places the responsibility of fiscal management on the State Court Administrator. This would appear to require the preparation and implementation of uniform records and accounting procedures and systems throughout the State.

One reason the courts are having such a difficult time meeting their obligations today is that they have not utilized the planning process. Comprehensive planning for the courts has been recognized on a national basis as a top priority need. LEAA funding is available to support planning and research activities, and we propose that a unit be established for the State Court Administrator's office.

Management of the system will be at the local level, and it is not anticipated that the State Court Admininistrator will be directly involved in trial court operations. However, there are needs for assistance at the local level, and we propose that there be established technical assistance staff in the State Court Administrator's office to fill this need. Each passing day sees the development of new systems and new technology which might be put to use in the courts area. We anticipate a small staff of experts which will be available to provide assistance, upon request, to the various courts around the State. This team might include a statistician, a records specialist, a communications specialist, and others who

will maintain proficiency in developing technology and be available to advise the judges, court administrators, clerks and others at the trial court level who need technical assistance.

A data and systems management section is an obvious need. A State Judicial Information System project is already well underway in the Minnesota court system, and it is reasonable to assume that computers will be utilized in the major trial courts and at the State level.

Since the personnel and fiscal management responsibilities will be placed upon the State Court Administrator's office by the Select Committee bill, it seems reasonable to assume that the General Assembly will authorize funding for these two staffs. With respect to the other increased staffing in the Administrator's office, there are two options available. Number one would be to seek legislative funding. The other alternative would be to seek LEAA grants. There has been considerable pressure applied to LEAA to require increased funding for the courts. It is reasonable to assume that all of the necessary initial funding could be secured through LEAA grants. The 1977 General Assembly can be asked to assume some of the funding, and then the 1979 Session can be expected to assume the remaining funding responsibility.

4. Priorities

A priority listing of Phase I items would include:

(1) Establishment of the position of Trial Court Administrator in each of the ten districts. Where necessary, these could be employed initially with LEAA funds.

(2) Establishment of the office of Chief Judge of the district.

(3) Establishment of the Council of Chief Judges.

(4) Establishment of the Council of Trial Court Administrators.

(5) Expansion of the staff of the State Court Administrator. Priorities for this expansion would be —
- (a) personnel and fiscal management;
- (b) planning and research;
- (c) data and systems management;
- (d) technical assistance; and
- (e) public relations.

(As indicated above, the judicial education process is not a new function but will simply require appropriate assignment within the office.)

The two staff directors should be recruited and employed so as to be available to help in organization and staffing of their various divisions.

These tasks should be completed as soon as possible after June 30, 1976.

For the judicial information system, we propose essentially a decentralized operation. There will be a State-level need for management data and, therefore, the need exists for a State-level management information system which will have access to data necessary to

that function. Management of the operational data and systems should be left to the local administrators.

With the necessary legislation having been passed and the Phase I organization having been completed, the administrative staff can then move into a number of functions which might appropriately be referred to as "Phase II objectives." These include:

(1) Development of the rule-making function by the Council of Chief Judges.

(2) Design and installation of uniform accounting records.

(3) Design and implementation of uniform case records and procedures for the clerks' offices.

(4) Development of a personnel administration program.

(5) Continued development of a management information system.

(6) Institution of a program of facilities management.

5. Job Qualifications

The key to the success of this program will be the qualifications of the persons selected for the positions of Chief Judge, District Administrator, and staff positions in the State Court Administrator's office. Experience in other jurisdictions indicates that the judge who has both judicial and administrative qualifications and who is concerned and dedicated enough to want to exercise administrative authority is a rare person. Great care must be exercised in selecting the Chief Judges to see that persons possessing this talent are appointed, and this should be done without regard to seniority or popularity.

Selection of the appropriate person to fill the position of Trial Court Administrator is likewise a critical problem. The court administrator must be qualified first and foremost as a manager. Given the court setting, it would be preferable to find a lawyer with broad management skills to take the position. Although it is desirable to have an administrator who is a legally trained person, experience indicates that the field of law does not typically offer educational preparation in the field of administration or the disciplines relevant to management.

Minimum qualifications should be set before any additional administrator positions are filled, and we propose as the very minimum qualification the following: "Bachelor's degree, five years experience in court administration, or a combination of such experience and graduate work in public administration, court administration, or law." The economy in Minnesota and salaries paid to other judicial officials will have some bearing on this, but on the basis of national experience it appears that the bottom range of the district court administrator's salary should be $25,000 per year.

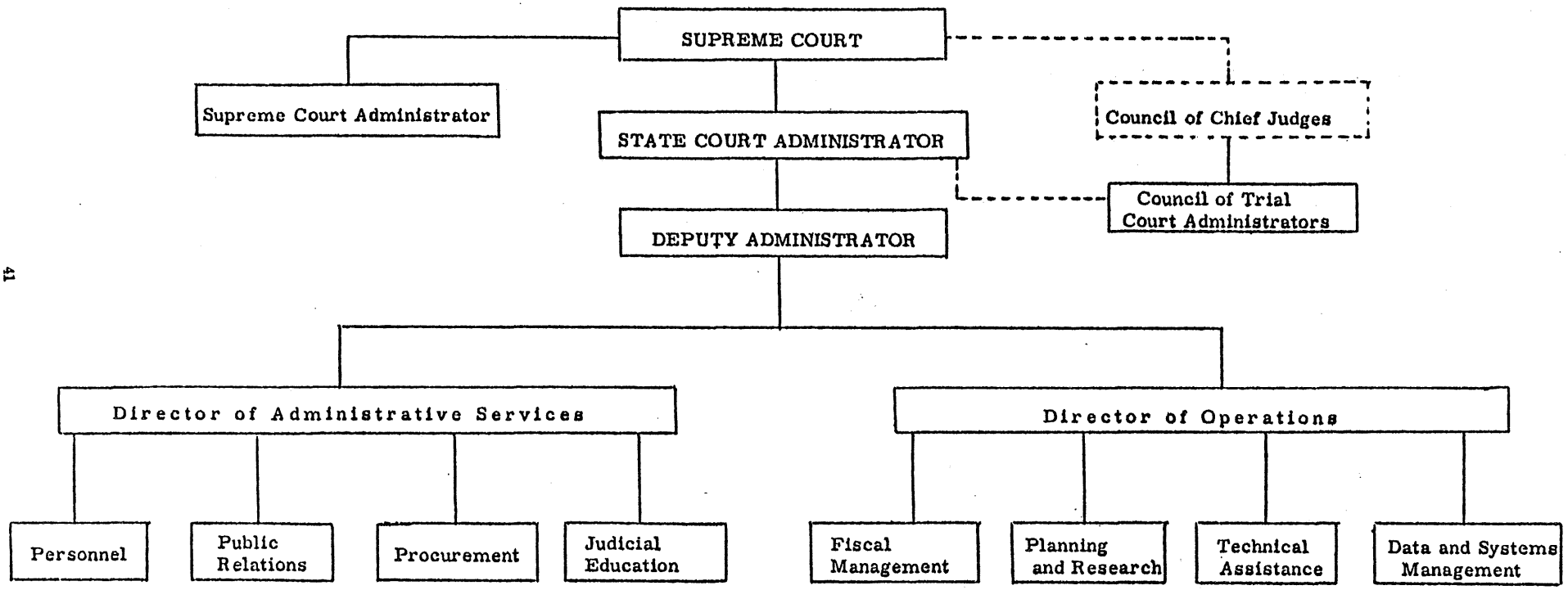
Similar care should be exercised in the selection of personnel on the State Court Administrator's staff. For example, in the fiscal management division, a person with government accounting background would be desirable. In judicial education, an attorney who can readily establish credibility with the judges would appear to be desirable. For the personnel function, a person with background in personnel

administration, preferably in government service, would be desirable. For the public relations or court information officer, a person with a major in journalism and experience in a public relations position or with the public media would be appropriate. For the planning and research staff, we propose a mixture of legally and non-legally trained scholars. The technical assistance staff should consist of technicians with experience and qualifications in the fields for which coverage is desired — e.g., records management. For the data and systems management division, great care should be exercised to see that persons experienced in systems management and development are acquired, along with the programmers and technicians who operate the hardware.

C. CONCLUSION

We have concentrated upon the mechanics of establishing an institutional setting for interaction among the judges and administrators at the various levels in the Minnesota Judicial Department to the virtual exclusion of specification of duties which should be performed by the various persons. We have taken this course because the Select Committee bill is explicit in assigning the necessary duties to the administrative judges and court administrators at the various levels. Our action also comports with the prevailing philosophy, both judicial and political, in Minnesota by placing the major management responsibility at the local level. Also, it provides just enough limited authority at the State Court Administrator level to enable the office to discharge its responsibility for executing statewide policy for the Supreme Court and the Council of Chief Judges. If the Select Committee bill is enacted in its present form and the organizational suggestions contained herein are followed, the State of Minnesota will develop an enviable system for court management.

PROPOSED STRUCTURE FOR COURT MANAGEMENT
STATE OF MINNESOTA



Appendix C

CONSULTANT

REPORT ON

ADMINISTRATIVE STRUCTURE:

Emphasis on the Office of District Administrator

James A. Gainey
Deputy Judicial Administrator
Supreme Court
State of Louisiana

To us the most important factors to be considered in recommending an administrative system are the needs of the system and who has the responsibility to meet those needs and finally who is best able to meet those needs.

It is just plain good administration that decisions affecting operational administration should be made at the lowest level possible consistent with overall policy guidelines. It is also the opinion of the writers that the Minnesota courts will not respond well to centralized administration.

It is the opinion of the writers that the administration of the state system would be best served if the operational function of the trial courts remains the responsibility of the trial court chief judges. It is our opinion that the Minnesota court system is best served in this way because the nearer the responsibility is placed to the need the better it will be for the total system.

The degree to which decentralized administration effectively and efficiently serves the needs of the trial courts will determine the degree to which the present decentralized system, even though fragmented, is capable of operating effectively. We believe, however, that there are some modifications that could be made to the organization of the courts that would insure effective operation of all the trial courts in the state.

In the interest of decentralized court administration, trial court districts should take the initiative in and responsibility for establishing a mechanism in which the trial courts can effectively coordinate their own activity. In order to meet this need, we recommend that a council of judges be created to supervise and coordinate the administrative function of the trial courts.

This council would be composed of a chief judge from each judicial district in the state. Initially the judge, who would be the district representative on the council, would be elected by his colleagues. Selection of a judge should not be on the basis of seniority or rank. The judge should be chosen solely on the basis of administrative talent or ability. At some future date, it may be advisable to make attendance at the National College of the State Judiciary special session on court administration a requirement to becoming a chief judge.

In the long run, it may be more cost effective if the office of Continuing Education for State Court Personnel develop a court administration curriculum for all the judges. It is understood that this requirement may not be possible to fully implement until something like 1980.

One significant obervation must be made at this point: if any administrative change is made in Minnesota, it must be based upon the needs and desires of the judges in the system. It is our hope that these needs and desires will be expressed by the judges' council.

This council is viewed as a permanent and continuing mechanism for securing the advice and suggestions of the judges. The concept of participatory management for court administration is a sound one, and experience has shown us that the judiciary must be actively involved in order to have positive results.

It is our hope that this council would insure the free flow of information both up and down the administrative organization in Minnesota.

It is also our opinion that, in order to insure an effective decentralized administrative structure, the position of regional administrator should be established for each of the ten

judicial districts. To us it also follows that the chief judge should select his own administrator.

(Select Committee Bill, Section 20. [DISTRICT ADMINISTRATOR.] Subdivision 1. [APPOINTMENT; TERM.] A district administrator shall be appointed for each of the judicial districts by the chief judge with the advice and approval of the judges of that district and shall serve at the pleasure of the chief judge. A district administrator may serve more than one judicial district.)

This administrator would play an important role in managing the courts in his district but his loyalty and allegiance would be with his chief judge. The trial judge must not have the attitude that someone from the Supreme Court would be constantly available to "check on" him. The necessary relationship that must be developed between a court administrator and his judge at the trial court cannot be effective unless the individual is employed by the local judge and serving at his pleasure.

It appears to us that effective models for court administration have been established in Minnesota and it would be to the benefit of the trial court system if the state legislature establish the position of regional court administrator in each of the ten districts of the state. We feel that it is necessary to establish these positions by the legislature since the Judicial Article of the Constitution does not clearly define the locus of the rule-making power in Minnesota.

If the legislature establishes these positions and the trial judges elect to fill the positions with professional administrators, it is our opinion that the fragmented and uneven administration referred to in other studies would be eliminated and that an effective and efficient decentralized system would emerge.

It is our recommendation that the regional administrator have administrative responsibility over municipal, county and district courts. It will be necessary in large metropolitan areas to appoint court administrators to concentrate directly on the needs and problems of one or more of the trial courts, e.g., Hennepin County Municipal Court.

Subject to the authority of the judges of the district and the supervision of the chief judge, the regional administrator should perform the following functions:

Caseflow management, jury and witness management; personnel, financial and data administration subject to standards established by the judges' council and the Supreme Court.

Secretarial services at meetings of the judges of the district and any other judicial committee meetings.

Liason to local government, bar, news media and general public.

Management of physical facilities, equipment and purchase services within the district.

Reporting to and consulting with the district judges' conference on the operation of the courts.

(Except for the management of physical facilities, equipment and purchase of services, this outline of duties compares quite closely with those enumerated in the

Select Committee Bill:

Subd. 3 [DUTIES.] The district administrator shall assist the chief judge in the performance of his administrative duties and shall perform any additional duties that are assigned to him by law and by the rules of the court.

Subd. 4 [LIAISON.] The district administrator shall assist the supreme court, the chief justice, the state court administrator, the chief judge of the judicial district and other local and state court personnel in:

(a) Development of and adherence to standards and procedures for the recruitment, evaluation, promotion, in-service training and discipline of all personnel in the court system, other than judges and judicial officers;

(b) Development of and adherence to uniform requirements concerning records, budget and information systems, and statistical compilations and controls;

(c) Identification of calendar management problems and development of solutions;

(d) Research and planning for future needs;

(e) Development of continuing education programs for judicial and nonjudicial personnel;

(f) Serving as liaison with local government, bar, news media and general public;

(g) Establishment of a court community relations program including identification of court related public information needs and development of a grievance procedure to settle administrative complaints not related to a specific judicial determination; and

(h) Communication of policy, procedure, relevant rulings, legislative action, needs, developments and improvements among county, district and state court officials.

Subd. 5. The district administrator shall serve as secretary for meetings of the judges of the judicial district.)

Depending on the organizational structure of the judicial district either the regional administrator or a trial court administrator should also be responsible for the administration of all personnel staff services, including the functions traditionally performed by:

The Clerk of Court
Courtroom Clerks
Court Reporters
Secretaries
Law Clerks
Jury Commissioners
All Other Comparable Persons Engaged in Court-Related Activities (see Select Committee Bill, Section 20, Subd. 4-a,e,h, supra.)

To establish the proper kind of relationship between a regional administrator and the bench, it requires a person with qualifications beyond question. The skills and qualifications of the regional administrator should provide the basis for his being greeted and treated as a responsible partner with the judges of the court. If this is only possible when the administrator is a lawyer with broad management skills, then, we recommend that he be such a lawyer; but it should be remembered that the regional administrator must be qualified first and foremost as a manager.

The success or failure of the court administrator also depends on whether he knows his role and what the expectations of the bench are and on whether he has the ability to

achieve a coordinated work force within the region.

Even though we have suggested that it may be necessary to hire a person who is legally trained, it should be remembered that law does not typically offer educational preparation in the field of administration or the disciplines pertinent to administration.

There are lawyers who have developed management skills in government and in corporations who may be available for such an office but they are often hard to find.

If it is decided that it is possible to hire an administrator, then the minimum experience and training should be: Bachelor's degree, 5 years' experience in court administration, graduate work in public administration and / or law and / or court administration. Minimum salary should be $25,000 per year.

In summary, it should be remembered that the court administrator's job is not intended to supplant the judges' administrative authority, but rather to cause the courts' authority to be used more effectively. The Minnesota bench should not conclude that a court administrator in each judicial district excuses them from substantial concern over the administration of their courts. In fact, the chief judge's full participation and cooperation in the judges' council and in the affairs of his district are vital to insuring the success of the regional court administrators and of the concept of decentralized court administration.

It will still be the judges within each district who are held accountable for its administration. This will require them to take an increased interest in the theory and practice of administration. The regional judicial administrator will remove much of the everyday administrative work from their shoulders.

However, the judges and particularly the chief judge must be well informed on matters of administration.

Finally, the Minnesota courts will never find themselves in full control of their own administration until they can demonstrate that they can do a better job than a legislative or executive agency. The writers find it a bit amusing to find such great concern over the fact that some people suggest centralizing the administration of the courts in the Supreme Court, when, in fact, many of the functions they suggest to be transferred to the Supreme Court are now being performed by either executive or legislative agencies. Judges must recognize the fact that they are going to be the managers of change or its victim.

CONSULTANT

REPORT ON

ADMINISTRATIVE STRUCTURE:

Emphasis on the Role of Chief Judge of the District

Honorable Alfred Sulmonetti
Circuit Court
Portland, Oregon

Honorable Frederick Woleslagel
District Court
Lyons, Kansas

General Observations

Chief Justice Sheran and Associate Justice Yetka, as Chairman of the State Judicial Council, have very wisely lent their efforts to assist the legislature in its consideration of any program touching upon court unification. The information compiled by the Select Committee on the Judicial System should provide the legislature with a firm basis for considering the advisability of any changes that might be considered as properly in the field of legislation.

In like manner, credit should be given to former Chief Justice Knutson and the National Center for State Courts for the detailed information on Minnesota trial courts made available to the legislature by the Minnesota District Court Survey and the Minnesota County Court Survey.

With the wealth of information at hand, it might be hoped that most changes that may be made would be made by the judicial branch. This would seem to be in keeping with the doctrine of separation of powers. This would result, probably, in any changes being helpful in carrying out the functions of the trial courts.

One of the emotional objections to any semblance of unification arises from the fact that judges, historically, have had a great deal of autonomy. They don't like to lose it. They tend to believe, also, that judges of a different class lack their experience, and likewise, their expertise. The meeting with the Key Group revealed that these sentiments exist within the trial judiciary in Minnesota.

Even so, proposed legislation would indicate that some unification of the trial courts is probably close at hand. And even if the Chief Justice becomes responsible for such matters as administrative policies, budget, LEAA, Highway, and other federal funds, judicial meetings, clerk and administrative meetings, education, public information and judicial assignment, he cannot do it alone. Nor can he do many of these tasks with just the aid of the Judicial Council, or a State Bench-Bar Committee, or both.

It is necessary that he have active cooperation of the trial judiciary and this should be under definite guidelines and definite assignment of duties. We believe this requires an expansion of power, and assignment of new duties, for chief judges.

Recommendations

1. Both county and municipal courts will be referred to as county courts hereafter. The county courts should be re-aligned so that each county court district is wholly within only one district court district. We shall refer to such a combination of courts as a Judicial District. We assume this is properly a legislative function.

2. The district court judges and the county court judges acting together should elect a district court judge as Chief Judge of the Judicial District for a definite term. They should also elect a county court judge as Associate Chief Judge. The Associate Chief Judge's primary responsibility would be to coordinate all county court functions and serve as liaison between the county and district courts.

(This differs somewhat from the Select Committee Bill, Section 19, Subdivision 1 which is as follows: [CHIEF JUDGES.] Subdivision 1. [APPOINTMENT.] In each judicial

district the supreme court shall appoint a chief judge who may be a judge of county, district, municipal or probate court.

and Section 14, Subd. 4 [CHIEF COUNTY COURT JUDGE.] If a county court district elects more than one county court judge, the chief ~~justice of the supreme court~~ judge of the judicial district wherein the county court district is located shall select the chief county court judge who shall serve at the pleasure of the chief ~~justice~~ judge and for a term of two years and who shall be responsible for assigning the work of the court except as provided in Section 19.)

3. In Judicial Districts having 10 or more judges we recommend the creation of an Executive Committee, composed of the Chief Judge, Associate Chief Judge and 3 to 5 judges (depending upon the number of judges within the judicial district) elected by the judges for staggered terms.

The Executive Committee should act in an advisory capacity to the Chief Judge. It shall have authority to make final decisions on administrative matters and other questions which affect the entire Judicial District as a whole. However, any such decision by the Executive Committee, upon request of any judge, should be subject to review and final approval at the regular monthly meeting of judges.

The Executive Committee should meet upon call of the Chief Judge. Timely notice and an agenda of each called meeting should be given to each member. Minutes of each meeting should be prepared and distributed to all judges within the Judicial District.

4. The term of office for the Chief Judge and the Associate Chief Judge should be two years. Judges elected to these positions should be eligible to serve one additional two-year term.

(No provision has been made in the Select Committee Bill for term of office.)

(Such a policy permits continuity of management and the utilization of all judges within the Judicial District who have administrative skills. If the judges so elected perform their duties well and to the satisfaction of their colleagues, the above policy would permit their election for an additional term. If their performance has not been satisfactory, a change can be made at the end of the first term.)

5. The election of the Chief Judge and the Associate Chief Judge should be conducted by secret ballots under procedures and rules established by the Executive Committee and approved by all judges within the Judicial District, where there are Executive Committees.

(If this recommendation is approved we are prepared to submit suggested court rules to implement this procedure.)

6. The Chief Judge should be charged with the responsibility of making efficient and maximum use of the judicial manpower within his judicial district.

In order to carry out this assignment he should, in consultation with the Associate Chief Judge, have authority to make assignments of all judges within his judicial district.

(Select Committee Bill, Section 19, Subdivision 2. In each judicial district the chief judge, subject to the authority of the chief justice, shall exercise general administrative authority over all courts within the judicial district. The chief judge

shall make assignments of judges to all cases within the judicial district; and, in order to more efficiently use judicial manpower, the chief judge may at his discretion make assignment of a county court judge to hear district court matters and of a district court judge to hear county court matters. A judge aggrieved by an assignment may appeal the assignment to the supreme court.)

The assignments may be on a geographical or a functional basis. In doing so, he should not necessarily consider whether a judge is a county judge or a district judge.

(If this recommendation is adopted it would permit the Chief Judge to appoint a county judge to sit on matters which are presently heard by district judges. This authority should be limited to instances in which no district judge is available or when it would be inconvenient or work a hardship to assign a district judge from an adjoining county.)

7. As Chief Administrator for his district, the Chief Judge in consultation with his Executive Committee should recommend changes to the Chief Justice in areas he is not empowered to make himself.

8. Each Judicial District should schedule a monthly meeting of all judges. The Chief Judge should preside at said meeting. A monthly report prepared by the Court Administrator should be distributed to each judge reflecting the performance of the entire Judicial District with respect to case disposition.

An additional purpose of said monthly meeting should be to seek to establish uniformity with respect to interpretation of various legal and procedural matters. Minutes and an agenda for each meeting should be prepared and submitted to each judge.

(The language of this recommendation differs slightly from that dealing with the frequency of judges' meetings in the Select Committee Bill, Section 19, Subd. 4: [JUDGES' MEETINGS.] The chief judge shall convene a conference of at least twice a year of all judges of the judicial district to consider administrative matters and rules of court and to provide advice and counsel to the chief judge.)

9. Except for policies mandated by the Chief Justice, each Judicial District should establish its own calendar management procedures, adopt and publish court rules in consultation with a District Bench-Bar Committee.

10. The judge members of the Bench-Bar Committee should be elected by all the judges within the Judicial District, for staggered terms. The lawyer members should be elected by the lawyers under a formula which recognizes disproportion in lawyer population between the counties.

The Chief Judge should preside over meetings of the Bench-Bar Committee.

In connection with the above recommendation, it is noted that time after time the Key Group members wanted to proscribe a function of a Chief Judge by providing that it be "subject to the approval of his fellow judges" or "subject to guidelines established by all the judges." We believe these restrictions make administration by the Chief Judge at the best unduly cumbersome, and at the worst, completely unworkable.

We believe, moreover, that the likelihood of exercise of tyrannical authority on the part of a Chief Judge is adequately minimized when he is elected by all of the judges for a

definite term.

11. The Chief Judge, in consultation with his Executive Committee, shall have the authority to employ a Court Administrator and prescribe his duties.

All administrative functions such as preparation and administration of budget, subpoenaing and management of jurors, supervising and assignment of duties of all clerks, receptionists and office personnel should be assigned to the Court Administrator.

(In keeping with modern concepts of court administration, judges should be relieved of most administrative duties thereby permitting them to devote maximum time to the disposition of cases. Therefore we would relieve the Chief Judge from routine administrative duties and assign them to the Court Administrator.)

(Select Committee Bill, Section 20, Subdivision 1, supra.)

12. The Chief Judge should supervise the compiling and publishing of court statistics, financial planning and preparation of budgets. (Select Committee Bill, Section 19, Subd. 2, supra.)

13. The Chief Judge should supervise and coordinate education and vacation schedules for all judges. Vacations for all non-judicial personnel should be supervised and coordinated by the Court Administrator under policies established by the Executive Committee, where there is one.

14. The Chief Judge should convene an annual judicial conference for his district.

(M.S. 480.18 ANNUAL CONFERENCE OF JUDGES; JUDGE'S EXPENSES. The supreme court of this state may provide by rule or special order for the holding in this state of an annual conference of the judges of the courts of record of this state, and of members of the respective judiciary committees of the legislature, and of invited members of the bar, for the consideration of matters relating to judicial business, the improvement of the judicial system, and the administration of justice. Each judge attending such annual judicial conference shall be entitled to be reimbursed for his necessary expenses to be paid from state appropriations made for the purposes of sections 480.13 to 480.20.)

15. The Chief Judge should appoint standing court committees.

(The appointment of standing committees such as Court Rules Committee, Courtroom Space and Facilities Committee, etc., will materially contribute to creating a collegial court. It also brings other judges into areas of responsibility.)

ELABORATION ON FISCAL IMPACT OF RECOMMENDATIONS

A. Creation of District Administrators

Based on the experience of the pilot projects in Minnesota's Fifth and Eighth Judicial Districts, the following estimate for a first-year budget is made:

Salaries:

Court Administrator or Court Executive $25,000
(This salary is believed to be within reason to attract persons qualified by experience, native ability, and training within court administrative areas)

Secretary 8,500
(The secretary's duties will inevitably expand from the office skills necessary in most secretarial positions to data collection, data interpretation and continuing reports; some "field work" within the geographic limits of the district would be done)

Fringe Benefits:

A reasonable estimate of fringe benefits to include Social Security: PERA, hospitalization, life insurance 5,200

Travel and per diem:

The district administrator would travel within the district extensively, so that the geographic size of the district will vary and affect these totals. The administrator will also respond on a regular basis to requests for meetings with judges, clerks, and State Court Administrator. In addition, it will undoubtedly be assigned to the administrator to attend one or more out-of-state conferences or seminars to further the administrative expertise of the administrators for Minnesota in cooperation with the State Court Administrator. 4,200

Equipment (this might possibly be partially furnished by the county in which office exists):

An initial investment would have to be made for each administrator's office of the following equipment necessary to its functioning:

At least one typewriter (variable type face capability)
Adding machine or calculator (data)
2 desks
2 office chairs
1 typewriter table
4 office files
large bookcase
office table for collating, meetings, etc.
lease of copying equipment $2,000

Office Supplies and expense:

To include stationery, paper, pencils, books for bookkeeping supplies, statute books, printed supplies, etc. $500

Postage	$500
Telephone service and tolls	$1,500
Dues for organizations administrator will maintain membership in on a professional basis	$100

RECAP:

Salaries and fringe benefits	$38,700
Travel and per diem	4,200
Office supplies and expense	2,600
	$45,500
Initial investment of equipment if none is furnished by resident counties:	$2,000

Given this budget for one district administrator's office and assuming that an initial investment of equipment is necessary for all offices, the cost to the state of establishing the position in all ten judicial districts would be $475,000.

B. Expansion of the Office of State Court Administrator

Projecting the cost to the state of the expansion of the State Court Administrator's Office is more complex than that of the district administrator due to the fact that the Committee foresees a two-phase implementation plan as outlined in Section II.C. and to the fact that, as the consultant report indicates, several of the positions recommended could initially be funded through Law Enforcement Assistance Administration grants. Nonetheless, irrespective of funding sources, we estimate the cost of expanding the Office of State Court Administrator in the succeeding table (see Figure 1).

Figure 1

PHASE ONE	Salaries:		
	Supreme Court Administrator	$25,500	
	Director of Personnel	25,500	
	Director of Fiscal Management	20,000	
	Director of Data and Systems Management	25,500	
	Director of Continuing Education for State Courts Personnel	+	
	MT / SC Operator	10,294	
	Administrative Secretary	11,025	
	Administrative Secretary	11,025	
	Clerk Stenographer, Senior	10,670	$139,514
	Fringe Benefits:	$20,927	
	Supplies and Expenses:	$29,179	
	Total — Phase One Expansion Cost	$189,620	

+While this position is essential to Phase One implementation, it does not represent an "expansion" position, as state funding has already been appropriated for 8-1-76.

P	Salaries:		
H	Director of Public Information	$18,500	
	Director of Procurement	17,000	
A	Director of Planning and Research	21,500	
	Director of Technical Assistance	21,500	
S	EDP Operations Technician 3	13,050	
	Clerk Steonographer, Senior	10,670	
E	Account Clerk, Senior	11,025	
	Administrative Secretary	11,025	
	Administrative Secretary	11,025	$135,295
T	Fringe Benefits:		$20,294
W	Supplies and Expenses:		$46,687
O	Total — Phase Two Expansion Cost		$202,276
TOTAL — PHASES ONE AND TWO			$391,896[1]

Salary levels were based on the compensation schedules for classified employees issued by the Minnesota Department of Personnel on January 7, 1976, and positions proposed by the consultants were roughly equated with current, classified positions with the help of a Personnel Department staff member. This was done, however, without benefit of detailed job descriptions, reference to the exact size of budgets or staff to be managed or the exact qualifications or requirements desired; thus, some upward adjustment in compensation for the professional positions might be necessary. The fringe benefits were calculated on the basis of 15 percent of the total salary figure. This percentage was recommended as consistent with current levels by the State Court Administrator. Supplies and Expense estimates used as a base those expenditures for Supreme Court / State Court Administrator in 1974. As the number of new positions in Phase One represented approximately 10 percent of the 1974 staffing level, 10 percent of the 1974 expenditure figure was used as a base with the addition of 2.5 percent to cover any extra first-year expenses that might be necessary for the creation of new offices and programs. In the same manner, Phase Two positions represented 15 percent of the 1974 Supreme Court / State Court Administrator staffing level, and so 15 percent of the 1974 Supplies and Expenses figure was used as a base and given an additional 5 percent due to first-year costs and the possible need for extra equipment or services in connection with the electronic data processing management.

C. Fiscal Impact on the State: Shift in Funding from County to State Plus Expanded Services

The following figures on revenues and expenditures are based on figures for January 1 to December 31, 1974, reported in A Study of the Financial Aspects of the Minnesota Court System for the Select Committee on the State Judicial System by Arthur Young & Company. In a subsequent random check by the fifth and eighth district court

1 Please note that existing Supreme Court / State Court Administrator costs are not included in this budget.

administrators and the staff, some reporting errors and inconsistencies were found. Most of the major errors identified in the sample were corrected. The most common reporting error discovered was the dupplicate reporting of expenses which were shared by two or more counties, e.g., court reporters' or county court judges' salaries. Another shortcoming of the figures was that the reporting form instructions did not clearly indicate that capital outlay costs should be amortized and only the actual payments for the reporting year reported. Thus, in the Eighth Judicial District capital expenditures appeared to be over one million dollars greater than they actually were for that year. The misrepresentation was corrected for use in this report. In gross terms, these errors which occurred in the non-sampled counties and remain uncorrected should not greatly skew the general significance of the figures. The main point to keep in mind regarding these errors is that they inflate the expenditures beyond the actual level, thus reducing the margin between revenues and expenditures. Figure 3 shows, by district, the total district court, county court and combined court revenues; total combined district and county expenditures; State of Minnesota expenditures for district courts and total expenditures for trial district and county courts by both state and county in 1974. PLEASE NOTE that the revenue figures only include that portion retained by the county. Another $8,369,383 of receipts collected by the courts is passed on to municipalities and the state.

(See Figure 2)

Looking, then, to 1974 as the most recent year for which complete figures are available, Figure 3 shows that costs currently borne by the county for operating the court system amount to $30,133,940. That cost if offset by county-retained revenues of $10,321,547 leaving a net cost to the counties of $19,812,393. This cost, transferred to state responsibility and combined with the expanded program costs of $475,000 for the district administrator function, and $189,620 for Phase One expansion of State Court Administrator services, would produce a cost of $20,477,013. This figure again, however, would be offset by the $8,369,383 in receipts currently forwarded to the state and municipalities leaving a Phase One estimated net cost to the state of $12,107,630; and, while the goal of the court system is to provide high-quality justice with a reasonable degree of efficiency and dispatch and not to create a balanced budget, it may be noted that the margin between expenditures and revenues could further be decreased. This could be accomplished through uniform and universal collection of such fees as judgment search fees, currently required by statute but not collected or uniformly so in all counties; by a thorough review and upgrading of fees to conform to national norms of fees collected by the courts; and by keeping the cost of capital expenditures at the county level. Phase Two costs for expansion of the Office of State Court Administrator added to the estimated net cost through Phase One (of state assumption of counties' court expenditures plus expanded services) produce an estimated net cost to the state of $12,309,906. This figure combined with 1974 state expenditures for the Supreme Court, existing Office of the State Court Administrator, Judicial Council and district courts produce a final estimated net cost to the state for operation of the entire court system of $15,900,319. Figure 4 provides a recap of this data.

1974 COUNTY REVNUE AND EXPENDITURES FOR THE MINNESOTA COUNTY AND DISTRICT COURTS[1]

REVENUE (To County)	First Judicial District	Second Judicial District(2)	Third Judicial District	Fourth Judicial District(3)	Fifth Judicial District	Sixth Judicial District(4)	Seventh Judicial District	Eighth Judicial District	Ninth Judicial District(5)	Tenth Judicial District	Statewide Total
Total Distrct Court	$ 187,836	$1,376,563	$ 249,067	$ 1,938,068	$ 215,289	$ 26,935	$ 228,557	$ 136,813	$ 205,265	$ 210,800	$ 4,775,193
Total County Court	776,285		838,639		763,337	149,079	849,722	543,853	651,523	973,916	5,546,354
Total District And County Courts	$ 964,121	$1,376,563	$1,087,706	$ 1,938,068	$ 978,626	$ 176,014	$1,078,279	$ 680,666	$ 856,788	$1,184,716	$10,321,547(6)
EXPENDITURES Total District And County Courts	$2,095,340	$5,039,413	$2,307,030	$10,064,304	$2,449,036	$ 361,993	$1,835,338	$1,218,232	$1,953,620	$2,809,634	$30,133,940
State of Minnesota Expenditures for District Courts	176,536	405,778	212,684	638,977	182,729	208,180	143,422	108,065	222,599	210,845	2,509,815
Total Expenditures for Court System (by Counties and State)	$2,271,876	$5,445,191	$2,519,714	$10,703,281	$2,631,765	$ 570,173	$1,978,760	$2,330,802	$2,176,219	$3,020,479	$32,643,755

(1) From A Study of the Financial Aspects of the Minnesota Court System, Arthur Young and Co., June, 1975; see pp. 31-2, supra, re corrections.

(2) The revenue shown for the Second Judicial District as District Court revenue represents the combined total of revenue from Ramsey County District Court, Ramsey County Municipal Court, and Ramsey County Probate Court. The expenditures shown as District and County Courts (Combined) represent the combined total of expenditures for these same District, Municipal and Probate Courts. Actual 1974 revenue and expenditure figures were not available for Ramsey County Municipal Court. The figures reported represent estimates of 1975 operations for the court. (See footnote to Exhibit III for further explanation.)

(3) The revenue shown for the Fourth Judicial District as District Court revenue represents the combined total of revenue from Hennepin County District Court, Hennepin County Municipal Court, Hennepin County Probate Court, and the Hennepin County License Bureau. The expenditures shown as District and County Courts (Combined) represent the combined total of expenditures for these same District, Municipal, Probate Courts and License Bureau. (See footnote to Exhibit V for further explanation regarding the inclusion of the License Bureau figures.)

(4) The figures reported for the Sixth Judicial District do not include amounts for Saint Louis County.

(5) The figures reported for the Ninth Judicial District do not include amounts for Crow Wing County.

(6) This figure represents the statewide total of county revenue received through the court system. It does not represent the total receipts of the court system which include an additional $8,369,383 of receipts contributing to municipal and state revenue.

SHIFT IN THE COST OF MINNESOTA COURT SYSTEM OPERATION FROM COUNTY TO STATE

1974 County Expenditures on Courts	$30,133,940
1974 County Revenues from Courts	-10,321,547
Net 1974 Cost of Courts to the Counties	$19,812,393
Implementation of District Administrator Services	+ 475,000
Phase One Expansion of State Court Administrator Services	+ 189,620
Total Cost through Phase One (of State Assumption of Counties' Court Expenditures and Expanded Services)	$20,477,013
1974 Court Revenues Forwarded by Counties to Municipalities and the State	-8,369,383
Estimated Net Cost to State through Phase One (of State Assumption of Counties' Court Expenditures and Expanded Services)	$12,107,630
Phase Two Expansion of State Court Administrator Services	+ 202,276
Estimated Net Cost to State through Phase Two (of State Assumption of Counties' Court Expenditures and Expanded Services)	$12,309,906
1974 State Expenditures for Supreme Court / Existing Office of State Court Administrator / Judicial Council	+ 1,080,598
1974 State Expenditures for District Courts	+ 2,509,815
Estimated Net Cost to State for Operation of Entire Minnesota State Court System through Phase Two	$15,900,319

It may be noted that the final estimated net cost to the state of operating the Minnesota court system through Phase Two represents .571 percent — or approximately one-half of one percent — of all state government expenditures for the year 1974.[2] Even double that figure would be humble indeed for the operation of one of the three "co-equal" branches of Minnesota government.

2 Figure for total expenditures for Minnesota in 1974 was $2,780,101,000 as reported in State Government Finances in 1974, U.S. Department of Commerce Bureau of the Census, p. 11.

Appendix F

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LIST OF INDIVIDUALS PRESENTING TESTIMONY

First Year

Mentor C. Addicks, Jr.; Legislative Counsel, League of Minnesota Municipalities
Honorable Howard Albertson; Washington County Court
Honorable Douglas Amdahl; Hennepin County District Court Chief Judge
S. Pal Asija; Executive Director, Minnesota Criminal Information Systems
Donald Blake; President, Minnesota Shorthand Reporters' Association
Robert Busse; Representative, Minnesota Association of Court Administrators and Clerks of the District Court
Ruth Eppeland; Regional Trial Court Administrator, 5th Judicial District
Thomas Lehner; Planning and Development Director for Colorado
Honorable Peter C. Lindberg; Hennepin County Municipal Court
Honorable Willard Lorette; Sherburne-Benton-Stearns County Court Judge
Donald Matlack; Kansas' Judicial Study Advisory Committee
John C. McNulty; Chairman, Minnesota State Bar Association Judicial Administration Committee
Jack Provo; Hennepin County District Court Administrator
Honorable Stanley Thorup; Anoka County Court; Member, Judicial Branch Committee on the Minnesota Constitutional Study Commission
Honorable Elmer J. Tomfohr; Goodhue County Court; County Court Judges' Association
Representative Gordon O. Voss

Second Year

Honorable Alexander F. Barbieri; State Court Administrator for Pennsylvania
John Haynes; Governor's Office
Robert W. Johnson; Minnesota County Attorneys' Association
Ralph Keys; Executive Director, Association of Minnesota Counties (testimony not Association policy)
Richard E. Klein; State Court Administrator for Minnesota
Bert M. Montague; Director, Administrative Office of the Courts in North Carolina

INDIVIDUALS INVITED TO PRESENT BUT NOT PRESENTING TESTIMONY

Jerry Benjamin; President, Southwestern Law Enforcement Association
Edward Bolstad; Executive, Minnesota Police and Peace Officers' Association
Charles Copenhaver; Chairman, Minnesota Association of Probation Officers; Director of Court Services
William DeRosier; Sheriff, Arrowhead Law Enforcement Association
Bill Falvey; President, Minnesota Public Defenders' Association

Lloyd Feind; President, Southeastern Law Enforcement Association; Rochester Police Department

Elsworth Foss; Conservation Officer, Pine Cone Law Enforcement Association

A. Milton Johnson; Regional Trial Court Administrator, 8th Judicial District

Phyllis Jones; Executive Director, County Attorneys' Council

Honorable Paul Kimball, Jr.; President, Minnesota County Court Judges' Association

Dave Knefelkamp; Minnesota Juvenile Officers' Association; Stillwater Police Department

Dean Lund; Executive Director, League of Minnesota Municipalities

Ron Markgraf; Suburban Law Enforcement Association; Maple Grove Police Department

Dean O'Borsky; Chief of Police, West Central Law Enforcement Association

Darryl Plath; Chief of Police, Hastings Police Department; Minnesota Chiefs of Police Association

C. Buiford Qualle; President, Minnesota Association of Court Administrators and Clerks of the District Court

Honorable Chester G. Rosengren; President, Minnesota District Court Judges' Association

Don Schaefer; Central Law Enforcement Association; Ramsey County Sheriff's Office

W.B. (Rip) Schroeder; Executive Secretary, Minnesota Sheriffs' Association

Hubert Warren; Secretary, Red River Valley Law Enforcement Association; Moorhead Police Department

Harold Willis; Paul Bunyan Law Enforcement Association; Minnesota Highway Patrol

COMMENTS

Comments on the Select Committee Report by Lawrence R. Yetka, Associate Justice of the Minnesota Supreme Court and Chairman of the Select Committee

As outlined in the committee report, the Select Committee came into being in the Spring of 1974 largely because of legislation then pending before the Minnesota Legislature which had as its purpose the consolidation of all of the trial courts of this state into one district court. The goal of the Select Committee, however, was not to be stampeded into hasty action but to study our system, discover its possible shortcomings, and propose possible solutions to those problems. I think the committee has done that.

In filing our report the committee has not foreclosed the possibility of a unified trial court sometime in the future. The concept of such a system is attractive — it has the same popular appeal as a unicameral Legislature. However, a unicameral Legislature has been adopted in only one state — Nebraska — and, while it appears to be acceptable there, it has spread no where else in the United States.

So it is with a unified trial court. The District of Columbia uses such a system, but no state has yet adopted such a plan. The short, limited experience that the District has had with such a plan and the relative small size of the District does not make it a good test for a unified court.

In April of 1976, the Chief Justice of the United States called a conference in St. Paul to commemorate Dean Roscoe Pound's famous address made in the city of St. Paul over 70 years ago outlining Popular Causes For The Dissatisfaction In The Administration of Justice. This year's conference was attended by judges, legal scholars, lawyers, and lay people from all over the nation. When the Minnesota Judicial System was discussed by the delegates, it was always in a positive and complimentary tone.

We in Minnesota should therefore be careful not to change our system into one which might cause new problems. The committee wanted to move cautiously so as not to recommend changes that might damage an already excellent system.

These topics were discussed during the course of committee deliberations:

(1) We have just recently consolidated the Probate Courts, Justices of the Peace, and the Municipal Courts outside the Twin Cities area into a County Court System. This new court system should be given time to adjust to the new jurisdiction given it.

(2) In the district court and the county courts we have men with varying experience and ability to perform certain types of work. The district courts have handled the major criminal and civil litigation. The county court jurisdiction has been with probate of estates, family court, and so-called traffic court and small claims litigation. There exists a natural division of skills. Even a unified court would resort to divisions within it. Thus, rather than giving the county court concurrent jurisdiction with the district court, as has been proposed by some, it makes more sense to define clearly the separate jurisdiction to be exercised in each court and to create more viable county court districts, with the resultant elimination of all one judge districts.

(3) A unified trial court would of necessity require the formation of some method of intermediate appellate disposition prior to the Supreme Court. The Supreme Court of Minnesota is already seriously overloaded with appeals, and the district courts today do take some of the burden of appeals from the county courts that would otherwise go to the Supreme Court. One possibility is the formation of an intermediate court of appeals. This would require a constitutional amendment. Another possibility is to create appellate panels within the district court to hear appeals from that same court. To avoid conflict, panels of judges from one district could hear the appeals from another district. A third possibility would be to designate all existing district judges as an appellate division of the district court and phase out their number by retirement or death until the desired number of appellate judges in the district court was reached.

(4) One of the advantages of a county court is the availability of a judge close by to serve each county seat. However, there are disadvantages to one judge districts as well, as the Bench and Bar discovered prior to 1957 when the present redistricting of our district courts took place. With one judge districts, illness, age, or affidavits of prejudice filed against a judge often caused backlogs to build up. Our system of three or more district judges in each district has worked well. How then with a unified court would we preserve the access to a judge by each county and yet have viable districts? One solution might be to redistrict the state. To insure that the large population centers would not elect all of the judges, residency and chambers requirements could be set — perhaps even election districts within a judicial district could be provided. Even so, it is doubtful that the legislature would sanction the expense of having a judge chambered in every county regardless of size.

(5) There exists strong opposition to a unified trial court from the Bench and Bar.

The above are merely some of the problems that come to light were this state to attempt an immediate imposition of a unified trial court on the Bench, the Bar, and the public.

The Select Committee proposal attempts to meet the known existing problems in our system, such as disparity in workloads among judges, the lack of viable county court districts, and the need for better court administration while still preserving the two-tiered trial court system. At the same time, the committee plan calls for the maximum use of the unique talents of our trial judges.

Finally, if experience with the committee plan in actual operation results in a general consensus that complete unification of the trial courts is practical and desirable, the final step from the committee plan to such a system would cause very little disruption, in contrast with the very serious disruption and antagonisms that an immediate move into such a system would cause.

Comment of the Hon. Charles E. Cashman

The Report of the Select Committee on the Judicial System is opposed on the grounds that it is lacking in long-range concept. The recommendations in the majority report represent an expedient compromise with sound judicial administration and a surrender to judicial reactionism and trepidation.

Retention of the existing two-tiered trial court system even with the changes as proposed by the committee majority perpetuates all of the problems inherent in any multi-tiered court system.

At the first meeting of the Select Committee its goal as abstracted by the Committee's staff was stated to be the

> "...development of an outline of a model judicial system for Minnesota and submission of an interim position paper with appropriate legislative proposals to state court leadership and the legislature..."

It should be apparent that the Committee Report falls far short of this goal.

It would seem the Select Committee had the duty to recommend a model judicial system for the State of Minnesota. The model court system recommended by virtually every study on court organization, both within and without the State of Minnesota, is the complete unification of a state's multiple courts having varied jurisdiction into one single-trial court staffed by a single class of judges.

1. American Bar Association (Standards Relating to Court Organization)
2. National Advisory Commission on Criminal Justice Standards and Goals (Report on Courts — standard 8.1)
3. National Conference on the Judiciary (1971)
4. American Judicature Society
5. Judicial Administration Committee of Minnesota State Bar Association (continuously since 1960)
6. Minnesota Citizen's Conference on Courts (1970 Consensus Statement)
7. Minnesota County Judges' Association
8. Various Minnesota District, County and Municipal Court Judges as well as Minnesota citizens interested in Court improvement (testimony submitted to House and Senate Sub-Committees on Court Unification)

In contrast to this impressive support for unification there appears to be no study that recommends the adoption of the multi-leveled trial court excepting in the way of compromise. It is significant that the Majority Report lacks supportive documentation for a two-tiered trial court system. Many states have attempted to unify their courts but, with the exception of the District of Columbia, all have thus far failed to do so. The "obstacles" to unification in those states that have attempted court reform are identical to those now being encountered here in the State of Minnesota. These "obstacles" are:

1. Alleged differences in quality between judges of the District Court and judges of the Courts of Limited Jurisdiction.
2. The possible increased difficulty in attracting experienced attorneys to the bench in

a court having jurisdiction over traffic, misdemeanors, juveniles, small claims and other matters now confined to the Courts of Limited Jurisdiction.

3. The reluctance of District Judges to face the prospect of the assignment to divisions hearing matters now handled by the Courts of Limited Jurisdiction.

The common denominator of these obstacles is the notion that much of the litigation in our courts today is demeaning and of lesser importance. The extent to which these notions persist is directly related to the amount of opposition to court unification.

While some may believe there is a difference in the quality of judges of the District Court compared with judges of the courts in the state having limited jurisdiction, there is no substantiation of that belief. The fact remains that most of the work handled by the District Court is very similar to that handled by the County and Municipal Courts. In addition, rules of evidence and procedures are the same in all three courts. The Report on Courts prepared by the National Advisory Commission on Criminal Justice Standards and Goals states:

"the lower Courts handle 90 percent of all criminal prosecutions in the nation."

If County and Municipal Court judges are indeed less competent as a class than District Court judges, then a disservice is being done to the people of the State of Minnesota by perpetuating a system that has created such a situation. In the final analysis, however, County and Municipal Court judges believe they are as qualified as District Court judges whether such qualifications be measured by law school education, experience as attorneys or experience as judges.

It has been said that a single-level trial court would make it difficult to attract experienced attorneys to a unified bench which would necessarily have to handle such irksome and certainly less glamourous matters as traffic, divorce and juvenile cases. Resolution of this problem, if indeed it is one, depends simply upon good court administration. In the event of court unification it is reasonable to expect that judicial assignments will be based not on seniority or influence but rather on ability, individual interests, special talents, and workload requirements. The suggestion that newly appointed judges would be arbitrarily assigned to undesirable work should be regarded as an insult to the integrity of the Chief Judge having assignment responsibility. It can also be argued that if Courts of Limited Jurisdiction are abolished the matters currently heard by them may no longer be deemed to be undesirable assignments.

Perhaps the greatest obstacle to court unification is the concern among many District judges that they may be required to perform "lesser" judicial duties in a single-level trial court. To the extent that this attitude is representative of the present District judges, it is clear that the present bifurcated trial court system has created an elitist hierarchy of judges to whom the more common problems of the citizens who elect them are demeaning and a waste of their judicial expertise. The resolution of this problem again is simply a matter of good administration by the Chief Judge of the District.

Identifiable problems existing in the two-tiered trial Minnesota Court System today are:

1. Duplication of courtroom facilities resulting in the disuse of courtrooms, offices and physical equipment in a large number of counties for most of the year.

2. Duplication of judicial manpower necessitating the presence of two or more judges at a given county seat to accomplish judicial work that could easily be performed by one Judge.

3. The complete waste of judicial manpower expended by a judge traveling many miles between court assignments. This is an affliction of most District Courts and some County Courts. It is inefficient, expensive and wasteful as well as hazardous. In addition, it is grossly inconvenient to the lawyers and litigants who are often obliged to pursue the judge from county to county.

4. Duplication of court records, causing added and unnecessary expense to the public.

5. Duplication of litigation resulting from the arbitrary and unrealistic limits on jurisdiction between courts, for example, a County Court does not have jurisdiction to enforce the custody provisions of a District Court marriage dissolution decree involving the same litigants before the County Court in a juvenile proceeding to terminate parental rights. Examples of this absurdity are endless.

6. The virtual non-existence of communication and interaction between judges of County and District Courts as well as of County and Supreme Courts resulting from the caste or hierarchist arrangement of the existing judicial system.

7. Disparity in caseloads between the District Court and Courts of Limited Jurisdiction.

8. Neglect of the lower court system as evidenced by inadequate facilities and supportive staff (see Minnesota County Court Survey, pages, 73-74) combined with variations in judicial salaries not based on workload or responsibility.

9. The arbitrary transfer of judicial business from the District Court to the County Court without regard to good judicial administration, the circumstances or workloads of the courts involved or an evaluation of the best interest of the general public.

10. Serious morale problems in all courts of the state due to incessant tampering with the judicial system and the perpetuation of a judicial caste system or pecking order.

The recommendations contained in the Majority Report fail to provide a solution to these problems. It is true the recommendations purport to provide increased flexibility in the existing system by proposing equality in judicial salaries with the same paid by the state and authorizing the interchange of judges between the District, County and Municipal Courts. Flexibility, however, is greatly inhibited by the requirement that the exercise of jurisdiction beyond that presently existing in a court be on specific assignment and stifling to flexibility. Furthermore, it is naive to believe that the legislature will equalize judicial salaries without a greater change in the structure of the courts and the regularly assigned work of each. The Majority Report recommendations may well be counterproductive in that they tend to further subordinate the Courts of Limited Jurisdiction to the District Court and infuse administrative personnel at a level where

they are unlikely to be responsive to local circumstances and needs.

The ABA Court Organization Standards (pp. 9-10) contains the following statement:

> "The consequences of maintaining two separate trial courts have been generally adverse. These consequences include: reduced flexibility in assigning Judges and other court personnel in response to shifts in workload; complexity and conflict in processing cases between courts, particularly between the preliminary and plenary stages of felony cases; and unnecessary emphasis on hierarchial rank among judges and other court personnel. Perhaps most important, the differentiation of the trial court of limited jurisdiction expresses an implicit differentiation in the quality of justice to be administered. It induces a sense of isolation and inferiority among the judges and court personnel who are called upon to perform one of the judiciary's most difficult and frustrating tasks — individualizing justice in the unending stream of undramatic cases that constitute the bulk of the court system's work."

The Report on Courts prepared by the National Advisory Commission on Criminal Justice standards makes the following statement (p. 161):

> "The lower courts handle about 90 percent of all criminal prosecutions in the Nation. Thus, the Courts that are lower, minor and inferior in nomenclature, financing, facilities, rehabilitative resources and quality of personnel conduct the overwhelming majority of all criminal trials and sentencings.
>
> "Lower courts, moreover, are important qualitatively as well as quantitatively. Typically, they deal with defendants with little or no criminal history. Often the offenders are young and their antisocial behavior has not progressed beyond the seriousness of misdemeanors. Even when the offender is older a first offense often is charged or later is reduced to a misdemeanor. Consequently, lower courts can intervene at what may be the beginning of a pattern of increasingly serious criminal behavior, and help prevent the development of long-term criminal careers.
>
> "The enormous crime-control potential of the lower courts is underscored by the fact that 80 percent of the major crimes of violence committed in the United States are committed by youths who have been convicted of a previous offense in a misdemeanor court."

One could go on indefinitely quoting findings from numerous other reports all to the same effect. It should be apparent that the existing Minnesota system as well as that proposed by the Committee Majority are sub-standard from every standpoint.

A unified single-level trial court in Minnesota would provide a solution to each of the enumerated identifiable problems either by actual elimination or maximum reduction of those that persist. The most attractive aspect of the unified court is the simplicity and clarity of its structure. Clearly it is the ultimate in court organization and thus its adoption will dispense with the need for further court reform. Unification will maximize flexibility and provide full utilization of judicial manpower as well as courtroom facilities throughout the state. It will engender judicial interaction and competency and it will dispel morale problems within the judicial system.

Similarity of work presently handled by the District, County and Municipal Courts should make adoption of the unified court system in Minnesota relatively a simple one.

The upheaval in moving from the existing system to a unified court would not begin to approach that which occurred in the Minnesota Court system following the adoption of the County Court Act in 1971. Despite the complete absorption of one court and the assumption of concurrent jurisdiction with another, all in areas completely unrelated to the jurisdiction of the then existing Probate-Juvenile Court, the transition of a County Court was effected quickly and without difficulty. The Minnesota County Court Survey prepared by the National Center for State Courts makes the following comments (page 6):

> "It is to the credit of judicial personnel within the system that the majority of problems associated with the rapid implementation of a new and far-reaching system have been resolved so quickly."

This experience coupled with the Limited Jurisdiction Courts' amenability to change and adaption is demonstrative of the relative ease with which the complete unification of the courts in Minnesota could be accomplished.

Through the better use of judicial manpower it can be argued that court unification would be less costly than maintenance of the present system. Savings would be achieved by the elimination of much travel expense presently being incurred by judges and staff and maximum use of courtroom facilities releasing courthouse space for other purposes and dispensing with construction of duplicate facilities. In any event, it should be apparent that court unification necessarily will provide maximum return to the citizen for the tax dollar spent. In view of these circumstances it may well be asked if the government is going to build courthouses, staff them with trained capable people and establish elaborate administrative systems to coordinate their function, why not make all courts full-service courts.

The Minnesota Supreme Court has recently adopted Rules of Criminal Procedure for all of the trial courts in the State. These rules took effect on July 1, 1975, and they involve substantial changes in present criminal law and procedure. Rule 1.02 reads as follows:

> "These rules are intended to provide for the just, speedy, determination of criminal proceedings. They shall be contrued to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay."

To this end, the new rules eliminate the Preliminary Hearing formerly conducted in County and Municipal Courts by combining the same into an Omnibus Hearing to be held in the District Court within seven (7) days of the defendant's initial appearance in that Court. The purpose of the new rules as expressed in Rule 1.02 is good, however, its accomplishment is entirely dependent on the day to day availability of the District Court within each County of the State inasmuch as virtually all of the newly defined criminal proceedings are to be conducted in the District Court. Under the existing two-tiered Minnesota Trial Court System, even with modifications as proposed by the Select Committee Majority Report, the District Court is not and necessarily cannot be available in each County of the State on a day to day basis since there are only forty-one (41) District Judges serving the eighty-five (85) counties outside of Hennepin and Ramsey Counties. It has been reported that the new Criminal Rules are not working as intended in some areas of the State because of the unavailability of the District Court. It does not

appear that the administrative changes proposed by the majority report will alleviate this problem. On the other hand, the new Rules are perfectly suited to a one-tiered trial court as provided for in a Unified Court System.

The Majority Report undertakes to sanction the practice of county supplements to a judge's salary. This provision appears to be inconsistent with the recommendation that all judges be paid the same salary as it is surely conducive to disparate salaries within the judicial system. Experience in Minnesota as well as in other states makes it clear that County supplements are contrary to good judicial administration in that they tend to perpetuate a caste system within the judiciary. A well-administered court system should have all judges sharing the court workload on an equal basis and receiving the same compensation. At best any salary differential should be based on years of experience and not where the Judge happens to live.

The principal thrust of the Majority Report recommendations seems to be the infusion of the Minnesota trial Court with large numbers of non-judicial staff people — both on the State and District level. The added costs represented by these recommendations, and they would be substantial, are not balanced by any apparent benefit to either the public or the trial courts. This emphasis on staff may well be the beginning of the replacement of judicial individuality, with all of its traditional responsiveness and access, by a highly controlled desensitized Court operation. One may well question what, if anything, the public has to gain from such a move.

To summarize, this Minority Report rejects the recommendation of the [Final] Report and urges the adoption of a Unified Court System in Minnesota having a single-level trial court staffed by judges of equal status and compensation.

Comment of the Hons. Harvey A. Holtan and Bruce C. Stone

The great majority of the District Court judges (including ourselves) do not desire any change in the jurisdiction, organization, administrative control, or method of financing of the judiciary, nor do they believe that the advisability or necessity thereof has been established.

Recognizing that this position did not prevail in the Committee, we have attempted to support those propositions advanced that seemed to best preserve and least impair the independence, fairness, and effectiveness of the judiciary of this State.

Comments of the Hon. Charles C. Johnson

By reason of its very title in addition to its stated goal it would seem the Select Committee has the duty to recommend the very best judicial system for the State of Minnesota. The court system recommended as a model by virtually every study on court organization both within and without the State of Minnesota is the complete consolidation of a state's multiple courts having varied jurisdiction into one single-trial court staffed by a single class of judges. Such a Unified Court System is recommended by the following:

1. American Bar Association (Standards Relating to Court Organization)

2. National Advisory Commission on Criminal Justice Standards and Goals (Report on Courts — standard 8.1)

3. National Conference on the Judiciary (1971)

4. American Judicature Society

5. Judicial Administration Committee of Minnesota State Bar Association (continuously since 1960)

6. Minnesota Citizen's Conference on Courts (1970 Consensus Statement)

7. Minnesota County Judges' Association

8. Various Minnesota District, County and Municipal Court judges as well as Minnesota citizens interested in Court improvement (testimony submitted to House and Senate Sub-Committees on Court Unification)

In contrast to the near unanimous support for complete unification there appears to be no study that recommends the adoption of the multi-leveled trial court excepting in the way of compromise.

Court Unification is not, as the Majority Report states, a catch-all term for many varieties of court reform. Court Unification means one thing and that is, simply, one trial court staffed by one class of judges. Many states have attempted to unify their courts but, with the exception of the District of Columbia, all have fallen short of that goal. The "obstacles" to unification in those states that have attempted court reform are identical to those now being encountered in the State of Minnesota. These "obstacles" are:

1. Alleged differences in quality between judges of the District Court and judges of the Courts of Limited Jurisdiction.

2. The possible increased difficulty in attracting experienced attorneys to the bench in a court having jurisdiction over traffic, misdemeanors, juveniles, small claims and other matters now confined to the Courts of Limited Jurisdiction.

While many believe there is a difference in the quality of judges of the District Court compared with judges of the courts in the state having limited jurisdiction, there has, nevertheless, been no factual substantiation of that belief. The fact remains that most of the work handled by the District Court is very similar to that handled by the County and Municipal Courts. In addition, rules of evidence and procedures are the same in all three courts. The Report on Courts prepared by the National Advisory Commission on Criminal Justice Standards and Goals states:

"The lower Courts handle 90 percent of all criminal prosecutions in the nation."

If County and Municipal Court judges are indeed less competent as a class than District Court judges, then a disservice is being done to the people of the State of Minnesota by perpetuating a system that has created such a situation.

It has been said that single-level trial court would make it difficult to attract experienced attorneys to such a bench. Resolution of this problem, if indeed it is one, depends simply upon court administration. In the event of court unification it is reasonable to expect that judicial assignments will be based not on seniority or influence but rather on ability, special talents, and workload requirements. The suggestion that newly appointed judges would be arbitrarily assigned to undesirable work should be regarded as an insult to the integrity of the Chief Judge having assignment responsibility. It can also be argued that if Courts of Limited Jurisdiction are abolished the matters currently heard by them may no longer be deemed to be undesirable assignments.

Identifiable problems existing in the two-tiered trial Minnesota court system today are:

1. Duplication of courtroom facilities resulting in the disuse of courtrooms, offices and physical equipment in a large number of counties for most of the year.

2. Duplication of judicial manpower expended in what is appropriately termed windshield time, that is, time spent by a judge in an auto traveling hundreds of miles between court assignments. This is an affliction of most District Courts and some County Courts. It is inefficient, expensive and wasteful as well as hazardous to the physical well-being of the judge. In addition, it is grossly inconvenient to lawyers and litigants who are often obliged to pursue the judge from county to county.

4. Duplication of court records, causing added and unnecessary expense to lawyers and the public.

5. Duplication of litigation resulting from the arbitrary and unrealistic limits on jurisdiction between courts, for example, a County Court does not have jurisdiction to enforce the custody provisions of a District Court marriage dissolution decree involving the same litigants before the County Court in a juvenile proceeding to terminate parental rights. Examples of this absurdity are endless.

6. Disparity in caseloads between the District Court and Courts of Limited Jurisdiction.

7. The arbitrary transfer of judicial business from the District Court to the County Court without regard to good judicial administration, the circumstances or workloads of the courts involved or an evaluation of the best interest of the general public.

The ABA Court Organization Standards (pp.9-10) contains the following statement:

"The consequences of maintaining two separate trial courts have been generally adverse. These consequences include: reduced flexibility in assigning Judges and other court personnel in response to shifts in workload; complexity and conflict in processing cases between courts, particularly between the preliminary and plenary stages of felony cases; and unnecessary emphasis on hierarchial rank among judges and other court personnel. Perhaps most important, the differentiation of the trial court of limited jurisdiction expresses an implicit differentiation in the quality of justice to be administered. It induces a sense of isolation and inferiority among the judges and court personnel who are called upon to perform one of the judiciary's most difficult and frustrating tasks — individualizing justice in the unending stream of undramatic cases that constitute the bulk of the court system's work."

The Report on Courts prepared by the National Advisory Commission on Criminal Justice Standards makes the following statement (p. 161):

> "The lower courts handle about 90 percent of all criminal prosecutions in the Nation. Thus, the courts that are lower, minor, and inferior in nomenclature, financing, facilities, rehabilitative resources and quality of personnel conduct the overwhelming majority of all criminal trials and sentencings.
>
> "Lower courts, moreover, are important qualitatively as well as quantitatively. Typically, they deal with defendants with little or no criminal history. Often the offenders are young and their antisocial behavior has not progressed beyond the seriousness of misdemeanors. Even when the offender is older a first offense often is charged or later is reduced to a misdemeanor. Consequently, lower courts can intervene at what may be the beginning of a pattern of increasingly serious criminal behavior, and help prevent the development of long-term criminal careers.
>
> "The enormous crime-control potential of the lower courts is underscored by the fact that 80 percent of the major crimes of violence committed in the United States are committed by youths who have been convicted of a previous offense in a misdemeanor court."

One could go on indefinitely quoting findings from numerous other reports all to the same effect.

Significantly, a unified single-level trial court in Minnesota would provide a solution to each of the enumerated identifiable problems either by actual elimination or maximum reduction of those that persist. The most attractive aspect of the unified court is the simplicity and clarity of its structure. Clearly it is the ultimate in court organization and thus its adoption will dispense with the need for further court reform. Unification will maximize flexibility and provide full utilization of judicial manpower as well as courtroom facilities throughout the state. It will engender judicial interaction and competency and it will dispel morale problems within the judicial system

Similarity of work presently handled by the District, County and Municipal Courts should make adoption of the unified court system in Minnesota relatively a simple one. The upheaval in moving from the existing system to a unified court would not begin to approach that which occurred in the Minnesota Court system following the adoption of the County Court Act in 1971. Despite the complete absorption of one court and the assumption of concurrent jurisdiction with another, all in areas completely unrelated to the jurisdiction of the then existing Probate-Juvenile Court, the transition of a County Court was effected quickly and without difficulty. The Minnesota County Court Survey prepared by the National Center for State Courts makes the following comments (page 6):

> "It is to the credit of judicial personnel within the system that the majority of problems associated with the rapid implementation of a new and far-reaching system have been resolved so quickly."

This experience coupled with the Limited Jurisdiction Courts' amenability to change and adaption is demonstrative of the relative ease with which the complete unification of the courts in Minnesota could be accomplished.

Through the better use of judicial manpower it can be argued that court unification would be less costly than maintenance of the present system. Savings would be achieved by the elimination of much travel expense presently being incurred by judges and staff and maximum use of courtroom facilities releasing courthouse space for other purposes and dispensing with construction of duplicate facilities. In any event, it should be apparent that court unification necessarily will provide maximum return to the citizen for the tax dollar spent. In view of these circumstances it may well be asked if the government is going to build courthouses, staff them with trained capable people and establish elaborate administrative systems to coordinate their function, why not make all courts full-service courts.

To summarize, this minority report urges the adoption of a Unified Court System in Minnesota having a single-level trial court staffed by judges of equal status and compensation. The Report on Courts (page 165) states:

> "No state has achieved a true one-level trial court;...standard 8.1 recommends a system of unified trial courts in which all criminal cases are tried in a single level of courts...only by such action the commission believes can the criminal justice system attract well-qualified personnel and supporting services and facilities to handle less serious criminal prosecutions."

If resistance to change is too great so that Minnesota cannot at this time become the first state to accomplish the ultimate in court organization thus necessitating compromise, then in the alternative it is recommended that the County and Municipal Courts be extended the same jurisdiction as the District Court.

Comment of the Hon. James H. Johnston

In not concurring in the Final Report, I would like to make the following observations:

A. Jurisdictional Structure — The Unified Court Concept

The stated goal is the delivery of fair and equal justice with a reasonable degree of efficiency and dispatch. Most authorities agree this goal is best achieved by a single-trial court of general jurisdiction having only one class of judge. Assuming them to be correct, the Committee's proposed changes of assignment, administration, and equal salaries bring the system several steps closer.

A single-trial court is worth continuing to strive for because it will:

1. Provide maximum flexibility in the assignment of judges to cases and cases to judges.

(Even though county court judges and district court judges will be subject to assignment by the same chief judge of the district, assignments for the most part will be made as is presently done. The proposed improvement is that a county or district judge can be assigned to each other's cases when the need arises. Hopefully, this will be done often to keep all trial calendars current so that the intended flexibility becomes a reality.)

2. Eliminate confusing jurisdictional distinctions.

(What rationale is there for limiting full-time judges of equal ability and experience to civil disputes of $6,000 or less simply because they are called county court judges? The same judge can be a district court judge the next day when chosen by the Governor to fill a vacancy. The same is true in criminal cases. In most cases, the same procedure and law applies whether the crime is a misdemeanor or a felony. In out-state areas, the county attorney, public defenders, and attorneys have the additional burden of seeking a district court judge to satisfy time limit requirements of first appearance, arraignment, plea, omnibus hearing, and other matters when a county court judge may be in a courtroom just next door. No private business would operate in such a fashion.)

page 76

3. Eliminate unnecessary duplication of administrative and clerical functions. (Separate court offices, clerk staffs, etc.)

4. Eliminate the appearance (at least in the eyes of some) that the county court having limited jurisdiction is not likely to be as fair, impartial, thoughtful, considerate, and above all reach the "right" decision as the district court.

The Committee took more testimony, received more written material, and discussed creation of a "single-tier trial court" for the State of Minnesota more than any other subject. The Final Report, however, gives "little comment" as to the reasons it was not adopted as a recommendation.

B. An Intermediate Court of Appeals

A single-tier trial court would require establishing an intermediate court of appeals, but an appellate division is now needed even if the present structure were to continue. In 1960-61 the supreme court heard an average of 235 cases a year and wrote 176 opinions. In 1970-71 the average number of opinions was 325, almost twice the number of ten years previous. The legislature's response was to add two supreme court justices rather than an intermediate court of appeals suggested by the Judicial Branch Committee of the Constitutional Study Commission of 1972.

Since then the supreme court's caseload has increased to put it in the same position with nine justices as it was with seven justices. In 1974 the court issues 367 opinions. In 1975 it jumped to 406 opinions for a whopping 10.6 percent increase in only one year.

Yet little discussion or consideration was given this subject by the Select Committee. Why? I think it's because it would require a constitutional amendment and appear to favor unification (even though it's needed with or without unification).

The supreme court will not be able to maintain its record of quality and efficiency if the present load is unrelieved.

Twenty-four states have intermediate appellate courts. Minnesota prides itself as a leader. Why don't we have one?

C. Administrative Models

1. Chief Judge of District

The Committee identified as one of the problems of the present court system the lack of clearly defined administrative duties, responsibilities, chain of command, and accountability. Their solution is the appointment of a chief judge of a district by the supreme court.

On the other hand, the consultants' — Hons. Sulmonetti and Woleslagel — solution was to recommend that a chief judge of a judicial district be a district court judge and that an associate chief judge be a county court judge both elected by district court judges and county court judges acting together. That their term of office be for two years and be eligible to serve one additional two-year term.

In addition, they recommended:
a. An executive committee.
b. Monthly meetings of all the judges in the district.
c. A bench-bar committee.

All of these recommendations of the consultants I favor. Whether the chief judge of the district is to be selected by the sureme court or the judges of the district, it is essential that while he or she exercise general administrative and assignment authority, decisions as to policy be decided by the judges of the district at its meetings to be held at least monthly.

A judge is elected at a local level and responsible to the community which he or she serves and yet in the Select Committee's report there are no requirements that a chief judge meet with county and district judges in the district more often than twice a year or that policy decisions be by a majority of the judges in a district. Consequently, there is little protection against an autocratic chief judge, and there may be little input possible by the rest of the judges. This significantly affects any responsible level of communication and "participative management," which is one of the stated goals of a reorganized state judicial system. Only by providing for the participation of each judge in the policy decision-making process can this goal be met. Local problems will vary greatly from community to community and should be and can best be solved at the local level.

2. District Administrator

The district administrator is a very important position to assist the chief judge of the district in the carrying out of his duties.

It should be understood and provided, however, that the district administrator is not under any direction or control of the state court administrator other than the furnishing of statistical reports and caseload information. While it is important that there be complete communication between the two, the district administrator's responsibility is to the chief judge of the district and to the other judges of that district.

D. Personnel System

Some question the need for a statewide personnel classification plan. The centralization necessary to accomodate objectives of such a plan along with a fiscal plan could destroy the authority for the operation of the courts in local districts. The local job requirements, local pay scales, and local needs vary so greatly from place to place that it will be a difficult if not impossible task unless very flexible criteria can be applied to such variables.

E. Financing the Court System

In any state funding plan, all courts should be assured that adequate monies will be made available to continue present budgets at present or increased levels. If the recommendation is true State funding, it is not fair to simply provide that counties that wish to can subsidize their county or district court when the State is evidently to receive all revenues. Each county should prepare its own budget request which would be subject to review at the district level and also at the supreme court level.

F. Conclusion

The Select Committee's work was interesting.

In essence, however, court unification is an evolutionary concept which can never be defined in absolute terms. At most, it is a concept whose general principles can be of enormous aid in any attempts at improving state court systems. The challenge should not be "Prove and convince me the system isn't okay now." The challenge should be "How can we improve the system?"

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