STATE OF MINNESOTA
IN SUPREME COURT

#51882

IN RE HEARING ON THE
CREATION OF A NEW
ELEVENTH JUDICIAL DISTRICT

PETITION

The undersigned do hereby Petition the Supreme Court of the State of Minnesota to not create a new Eleventh Judicial District. Rather your Petitioners Petition the Court to redistrict the County Court District in which Sherburne County is located withdrawing Sherburne County from the Stearns, Benton, Sherburne County District Court District and creating a new District Court District within the existing Tenth Judicial District of Wright and Sherburne Counties.

The reasons therefore are contained in the attached Exhibit A being a letter dated September 19, 1979, from Petitioners to the Judicial Planning Committee.

Further more, your Petitioners did attend a hearing on this matter held at Little Falls, June 13, 1980. At that hearing there was a great deal of opposition to creating a new Eleventh Judicial District. Most persons agreed that there was need to reform the County Court Districts within the Tenth and Seventh Judicial Districts but the concensus was that such realinement of County Court Districts could be had without the disruption caused by changing District Court Judicial Districts.

Reform is necessary but need not take such a drastic form.

Dated: November 10, 1980

Respectfully submitted,

Clifford C. Lundberg

Shelden M. Vie

Attorneys at Law
310 King Avenue, P.O. Box 19
Elk River, Minnesota 55330
Telephone: 612/441-1251

Howard S. Wakefield
1910 - 1975

WAKEFIELD, LUNDBERG & VIE
Attorneys At Law
310 King Ave.
P.O. Box 19
Elk River, Minnesota 55330
Phone (612) 441-1251

Clifford C. Lundberg
Shelden M. Vie

December 19, 1979

Supreme Court State of Minnesota
Judicial Planning Committee
40 North Milton, Suite 302
St. Paul, MN 55104

Re: Judicial Redistricting

Dear Committee Members:

I have recently been informed that there is a plan afoot to remove Wright County and Sherburne County from the Tenth Judicial District and to make them a part of a new judicial district with apparent headquarters in Stearns County.

This office is violently to such a plan. Elk River and Sherburne County have long been closely associated with Anoka and Wright Countys and the Tenth Judicial District. It is much easier for those of us practising in Sherburne County to attend court in Anoka or Buffalo if the case should arise than it would be to attend court in St. Cloud.

It has been an extremely long time since Elk River has had a resident judge, probate or otherwise. As the County Court District stands now and as the district would stand under this new proposed plan it would be extremely unlikely that any judge would have chambers let alone domicle in Elk River, the Sherburne County Seat.

It would make much more sense for Sherburne and Wright Countys to stay in the Tenth Judicial District and for Sherburne County to be removed from its present County Court District and to join with Wright County as a new County Court District with three judges, at least one of which would, if at possible, be a resident of Sherburne County. This would more nearly effectuate the Supreme Court's intent as stated in recent redistricting orders to "allocate judicial resources in such a way that each county in a judicial district shall have at least one county court judge resident therein before any other county judicial district shall have two or more resident county court judges." and

" That elected County Court judges be responsible to the persons in the counties in which they reside by maintaining chambers in the counties of their residence."

In my opinion and from conversations I have had from other attorneys in Sherburne County and Wright County I consider my opinion to be in

majority consensus, I believe the plan to create a new judicial district should be defeated and rather the present difficulties and unrest resolved by creating a new County Court District of Wright and Sherburne Countys.

Yours truly,

Clifford C. Lundberg

Shelden M. Vie

STATE OF MINNESOTA
DISTRICT COURT

CHARLES W. KENNEDY, JUDGE

WADENA, MINN. 56482

November 15, 1980

Mr. John McCarthy
Clerk of Supreme Court
230 State Capitol
St. Paul, Minn. 55155

Re: File # 51882 In Re Hearing on the creation of a New Eleventh Judicial District

Dear Mr. McCarthy:

Enclosed herewith, for filing pursuant to the order of the Court of October 27, 1980, 10 copies of objection on behalf of the undersigned. Please distribute to the members of the Court. Thank you.

Yours very truly,

Charles W. Kennedy
Courthouse
Wadena, Minn. 56482

STATE OF MINNESOTA

IN SUPREME COURT

51882

IN RE HEARING ON THE
CREATION OF A NEW
ELEVENTH JUDICIAL DISTRICT

TO THE HONORABLE SUPREME COURT OF THE STATE OF MINNESOTA:

OBJECTION

Charles W. Kennedy, judge of the district court for the Seventh Judicial District, respectfully objects to the creation of a New Eleventh Judicial District, and to that part of the petition herein, Appendix 1, which reads:

> 2. Judge Charles W. Kennedy, a resident of Wadena County within the new Seventh Judicial District should be assigned, from time-to-time to the proposed Eleventh Judicial District. Judge Kennedy's chambers are currently in Little Falls.

The objection is summarized as follows:

> 1. There are not two resident district judges within the proposed district, as the constitution requires.
>
> 2. The constitution does not authorize the assignment of a district judge of one district to another by express language, and the rationale by which assignment may occur requires equal treatment of all ten district judges involved.
>
> 3. A district judge should be permitted to complete his term within the district wherein he was elected.
>
> 4. The proposal of Appendix 1, paragraph 2, would unfairly impose unreasonable travel and away from home requirements on the undersigned.

1. Article VI, Sec. 4 of the constitution of Minnesota provides,

> There shall be two or more district judges in each district. Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office.

There are now two resident district judges in the proposed district, one in the tenth district, resident of Wright County, one in the seventh district, resident of Stearns County. But the proposal is not to have those two judges serve the new district. The proposal is to assign the Wright County district judge to the remaining six counties of the tenth. There would then be only one resident district judge serving the eleventh. The proposal to assign the undersigned, of the seventh district, a Wadena resident, from time to time to the new district, is an attempt to comply with the constitution. But that does not comply if the constitutional requirement is given meaning for it means a district to have, from the outset, two or more resident district judges serving the district. The district residency requirement has existed for over a century. See, Statutes of Minnesota Revision of 1866, page 34. The number of district judges has changed but the residency requirement has not.

At least the functioning of the proposed district should await creation by the legislature of district judgeships to be filled by residents. Whatever the merits (and they are debatable) of the proposed redistricting, nothing is presented by the petition, its appendices, its memorandum, or from any materials presented, to show such an exigency as justifies the hasty action proposed. Perhaps the legislature is reluctant to create district judgeships until it sees how things are going but it should be formally asked to provide judgeships, if the new district is justified. By the constitution, the legislature is the source of redistricting authority.* It has delegated that authority to the Supreme Court, but on as important a matter as a change of long standing judicial districts, where creation of district judgeships must necessarily be considered, the proposal should await legislative consideration.

---

* Article VI, Sec. 4. "The number and boundaries of judicial districts shall be established in the manner provided by law but the office of a district judge shall not be abolished during his term." The phrase "provided by law" means by legislative enactment. See, In Re Clerk of Lyon County Courts, 308 Minn. 172, 174, 241 N. W. 2d 781, 783 (1976).

2. The constitution does not expressly authorize the assignment of a district judge of one district to serve in another district not his own. That constitutional void shows the unfairness of the proposal because, according to the rationale of the constitution, any duty to supply judicial services to the new district should fall equally on the ten district judges within the two districts.

From at least 1878 until November 6, 1956, the constitution authorized district judges to serve outside of their districts. Thus, in 1878, the constitution provided,

> The legislature may provide by law that the judge of one district may discharge the duties of the judge of any other district not his own, when convenience or the public interest require it. Constitution Article VI, Sec. 5, Statutes of Minnesota 1878 page 24.

That provision, in substance, remained in the constitution continuously until it was omitted in 1956, in the revision of the judiciary article adopted by amendment November 6, 1956 pursuant to the legislature's proposal for amendment, Laws 1955, chapter 881. Since 1956 there has been no comparable constitutional provision.

When revision of the judiciary article was being considered, tentative drafts of a revision contained a similar provision. Thus, in a 1948 tentative draft of a proposed amendment, a Section 15 provided:

> "The chief justice shall be the administrative head of all the courts. He shall appoint an administrative director to serve at his pleasure. He may temporarily assign a judge of the district court to a district other than his own or a judge of the court of probate to a county other than his own as need and the public interest require it." 32 Minnesota Law Review 815, 822.

That proposed revision was not adopted and the proposal that went before the voters and was adopted contained no mention of the authority of a district judge of one district to act in another or of authority to assign a district judge from one district to another. Professor Maynard E. Pirsig noticed the omission, and

said, at note 18, 40 Minnesota Law Review 815, 822:

> "18. Unfortunately, the proposed new judiciary article may emphasize this tendency. The district court judge must be a resident of his district at the time of his selection and during his continuance in office. * * * He must be elected by the electors of the district wherein he is to serve. * * * These requirements exist also in substance under the present constitution. * * *. Minn. Const. art. VI, Sec. 4. But it further provides: 'The legislature may provide by law that the judge of one district may discharge the duties of the judge of any other district not his own, when convenience or the public interest may require it.' Minn. Const. art. VI, Sec. 5. This does not appear in the proposed article nor is there any similar provision. There is no indication anywhere in the article that district court judges may be permitted to function in any district other than that in which they were elected. To enable them to do so, it will be necessary to contend that the article provides for but one district court, that judges are members of the entire court and therefore empowered to exercise its jurisdiction anywhere in the state." Emphasis added.

If that is the case, then all ten district judges involved, six in the tenth district, four in the seventh, are authorized to act from time to time in the proposed eleventh, by virtue of the fact that they are all members of one entire court - not by reason of where they live or where their designated chambers may be. Therefore, the duty of those ten judges to temporarily supply judicial services until the constitutional requirement of two or more resident district judges is brought about, extends to all, and should be borne in some fair, equitable distribution, by all. The proposal shrinks the tenth judicial district from eight counties to six, retaining the six judges with area and travel reduced by two counties, and it proposes no assistance from those judges pending resident district judges in the new district. The proposal shrinks the seventh judicial district from ten counties to six, reducing the area and travel of two judges by four counties, remarkably reducing the travel of one judge who will be a resident judge in the new district, and proposing increased area and travel to one judge of the seventh district. That is not equitable.

3. A district judge should be permitted to complete his term within the district wherein he was elected. Article VI, Sec.7 provides:

> The term of office of all judges shall be six years and until their successors are qualified. They shall be elected by the voters from the area which they are to serve in the manner provided by law.

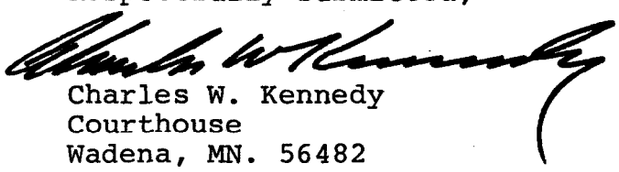
A comparable constitutional provision has existed from the earliest days of the state. District judges are elected by the people in a certain area. The integrity of the elective process requires that for the constitutional term, the district judge serve the area which elected him. The constitution, in various provisions, seeks to prevent the shifting of judges. It would be a dangerous precedent to in effect violate one of the aims of the constitution out of an apparent fear that the legislature will not authorize resident district judgeships in the proposed district.

When the undersigned ran for election in 1976 it was to serve in the ten counties of the seventh judicial district. That was the area in which I had practiced law and had served as district judge since February, 1962. There was not at that time any statute in existence authorizing redistricting other than by the legislature. T he reasonable expectation of a candidate for district judge at that time was to serve the ten counties of the district. It was not to serve in any other counties except for such temporary or emergency service as any district judge might have to do because of conditions contemplated by Minn. St. 1976 484.05 (service in another district at request of a district judge) or by Minn. St. 1976 2.724 (assignment to another district by the Chief Justice). Whatever travel was required by service in the seventh judicial was necessarily expected. But there was no reason to anticipate that, by a non-legislative redistricting process, more travel, and travel outside of the seventh district counties, would be required in order to reduce travel for other district judges.

4. The proposal of Appendix 1, paragraph 2, would unfairly impose unreasonable travel and away from home time on the undersigned. My residence is at Wadena and the travel I must do has to be measured from there. I share the distaste for windshield time and time away from home emphasized by the petitioner's memorandum.

If the proposed eleventh district is to be created, and if its functioning cannot await the constitutional requirement of legislatively created resident district judgeships, then the requirements for work outside of the area which a district judge was elected to serve, and requirements of travel and time away from home should be fairly distributed among all of the judges concerned.

Respectfully submitted,



Charles W. Kennedy
Courthouse
Wadena, MN. 56482

218 631 3048 Courthouse
218 631 1835 Residence

TELEPHONE 629-2950

JOHN M. SHARP
ATTORNEY
243 Sixth Street
PINE CITY, MINNESOTA 55063

December 2, 1980

51882

The Chief Justice and the
Justices of the Supreme Court

In re: Hearing on the creation of a new Eleventh Judicial District.

Honorable Sirs:

May I express opposition to the establishment of the Third County Court District within the proposed Eleventh Judicial District as recommended by the Judicial Planning Committee to the Supreme Court?

With twenty-five years of practice in the Tenth Judicial District and with practice in the County Courts serving Pine, Isanti, Chisago, Mille Lacs and Kanabec Counties as long as there have been County Courts I do not believe the Judicial Planning Committee is aware of the problem the Third County Court District would bring to the County Courts of the present Tenth Judicial District. At present Judge Paulson divides his time between Kanabec and Mille Lacs. This plan would remove him from his bench in Kanabec County. The necessary corollary of this would be the assignment of a Judge to that bench from Pine or Isanti counties. At the present time these Judges have all more of a work load than can be reasonably handled and none or all of them could assume the work load from Kanabec County.

It would appear that the Judicial Planning Committee should, before recommending this plan examine its effect on the surrounding area.

Yours truly,

John M. Sharp
Attorney

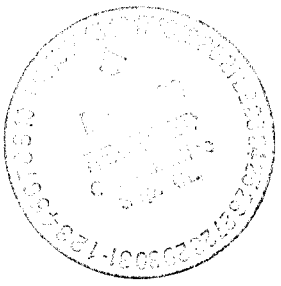
JMS:clw

PHONE (612) 251-1055

DONOHUE & RAJKOWSKI
ATTORNEYS AT LAW
P.O. BOX 1511
1011 SECOND STREET NORTH
ST. CLOUD, MINNESOTA 56301

MICHAEL H. DONOHUE
FRANK J. RAJKOWSKI
GORDON H. HANSMEIER
FREDERICK L. GRUNKE
THOMAS G. JOVANOVICH

December 12, 1980



Chief Justice Sheran
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55101

51882

RE: Proposed redistricting of the Seventh Judicial District and creation of a new Eleventh Judicial District

Dear Chief Justice Sheran:

On behalf of the firm I would like to express our unanimous support for the proposed creation of a new Eleventh Judicial District. We believe that the new district would eliminate problems which inevitably arise when, for example, a judge chambered in Moorhead or Fergus Falls is assigned to hear cases in Morrison or Benton County. In addition to the court time wasted in travel to the place of trial, post trial motions in such a case must often be heard at the judge's chambers in a county far removed from the place of trial. Because the new district would be geographically smaller, the judges would be chambered in closer proximity to the counties which they serve. A good deal of unnecessary travel on the part of both judges and litigants would thus be eliminated by implementation of the planned redistricting.

For this reason, and for the reasons cited by proponents of the new plan, we urge Supreme Court adoption of the proposed redistricting.

For the firm,

DONOHUE & RAJKOWSKI

By
Michael H. Donohue

MHD:dma

TENTH JUDICIAL DISTRICT

HONORABLE JOHN F. DABLOW
Judge of District Court

Isanti County Courthouse
Box 272
Cambridge, MN 55008
612/338-5885

December 9, 1980

Clerk of the Supreme Court
State Capitol Building
St. Paul, Minn.

Dear Sir:

Pursuant to the Order of the Supreme Court, I send you herewith original and ten copies of this request to be heard in opposition to the proposed redistricting of the Seventh and Tenth Judicial Districts and formation of the Eleventh Judicial District on December 19, 1980.

Yours very truly,

JOHN F. DABLOW

JFD/do
enc.

IN THE SUPREME COURT STATE OF MINNESOTA

In Re Hearing on the Creation of a New Eleventh Judicial District.

STATEMENT IN OPPOSITION

As a duly elected Judge of the District Court, Tenth Judicial District, said district consisting of the counties of Washington, Anoka, Wright, Sherburne, Isanti, Chisago, Pine and Kanabec, I object to the altering of my election district in mid-term or at any other time, as here proposed, and wish to be heard in opposition for the following reasons:

1. I wish to continue to serve the citizens of Wright and Sherburne Counties who elected me as one of their District Judges in November of 1978.

2. In the event this plan should not be approved by the Supreme Court or if approved, not subsequently consented to by a majority of the Chief Judges, I would not want the citizens of Wright and Sherburne, given my silence, to conclude that I did not or do not wish to serve them.

3. The added cost of a new district.

4. The minimal venue problem which exists in St. Cloud City which re-districting was designed to solve compared to those added costs.

5. The disruption of Tenth Judicial District functions caused by the plan, now and in the future, vis-a-vis: A) the Chief Judge, B) the public defender, C) the district administrators.

6. The plan's lack of acceptance among the affected: A) County Boards, B) Citizens Committees, C) Bar Associations, D) District Judges, E) Clerks of Court, F) County Attorneys.

7. The lack of public support as evidence by the area news and editorial coverage or the lack of it.

8. Wright and Sherburne are logical extensions of the Metropolitan Government District, not the St. Cloud area.

I will confine my remarks to no more than 3 minutes.

Respectfully submitted,

John F. Dablow
District Court Judge

GERALD W. KALINA
JUDGE

DAKOTA COUNTY GOVERNMENT CENTER
HASTINGS, MINNESOTA 55033

STATE OF MINNESOTA
COUNTY COURT, DAKOTA COUNTY

December 10, 1980

Mr. John McCarthy, Clerk
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

51882

Re: Proposed Eleventh Judicial District

Dear Mr. McCarthy:

This is to advise you that I plan to appear on December 19, 1980, before the Court to present the plan for the proposed creation of a new Eleventh Judicial District and the redistricting of county court districts therein.

The following persons will also appear in support of the plan if needed:

Orrin Rinke
Dan Eller
Richard Jessen
Ron Johnson
Judge Roger Klaphake

Very truly yours,

Gerald W. Kalina

Gerald W. Kalina
Judge of County Court

GWK:dp

McCARTEN & TILLITT
LAWYERS

612-762-8171

JOHN J. McCARTEN
RALPH S. TILLITT

PAUL V. McCARTEN
PAUL R. JOHNSON

P.O. BOX 188, 801 BROADWAY
ALEXANDRIA, MINN. 56308

December 10, 1980

John C. McCarthy
Clerk of Supreme Court
State Capitol
St. Paul, MN 55101

Re: In the Matter of the Redistricting of the County Courts in the Seventh Judicial District and the Creation of a New Eleventh Judicial District

51882

Dear Mr. McCarthy:

Enclosed for filing is the Petition of the Seventh Judicial Bar Association and its special Redistricting Committee, in the above entitled matter. This Petition is submitted as an original and twelve copies.

The Seventh Judicial District respectfully requests permission for oral argument by the following:

1) Ralph S. Tillitt
2) Richard L. Pemberton
3) Luther P. Nervig
4) R. W. Irvine
5) Roger J. Nierengarten

at the hearing on December 19, 1980.

Please note that the Petition is signed by myself and Mr. Nierengarten on the cover page and that Mr. Nierengarten through omission did not sign his name on page 10, and that I have signed his name on page 10 and initialed it.

Very truly yours,

McCARTEN & TILLITT

By Ralph S. Tillitt

RST/lmh
Enclosures
cc: Richard L. Pemberton
Luther P. Nervig
R. W. Irvine
Roger J. Nierengarten

NO. 51882

STATE OF MINNESOTA

IN SUPREME COURT

In the Matter of the Redistricting of the County Courts in the Seventh Judicial District and the Creation of a New Eleventh Judicial District) PETITION

TO THE HONORABLE SUPREME COURT OF THE STATE OF MINNESOTA:

The Seventh Judicial District Bar Association, and its special redistricting committee, respectfully reports, and recommends, to the Supreme Court:

1. Rejection of the recommendation of the Judicial Planning Committee to create an Eleventh Judicial District.

2. The continuance of the Seventh Judicial District as it presently exists with division into two administrative sub-districts as follows:

Sub-District 7A. Clay, Becker, Ottertail, Douglas, Todd and Wadena Counties

Sub-District 7B. Morrison, Mille Lacs, Benton and Stearns Counties

Dated: 12-10-1980

RESPECTFULLY SUBMITTED,

SEVENTH JUDICIAL DISTRICT
BAR ASSOCIATION

By: Ralph Tillitt
Ralph Tillitt, President

SEVENTH JUDICIAL DISTRICT
REDISTRICTING COMMITTEE

By:
Roger J. Nierengarten, Chairman

APPENDIX 1

The Seventh Judicial District Bar Association and its Redistricting Committee respectfully reports, to the Supreme Court, the following administrative matters for action:

1. The division of the Seventh Judicial District administratively into two sub-districts, 7A consisting of the counties of Clay, Becker, Ottertail, Douglas, Todd and Wadena; 7B consisting of the counties of Morrison, Mille Lacs, Benton and Stearns.

2. The assignment of Judge Charles W. Kennedy and Judge Gaylord Saetre to Sub-district 7A and the assignment of Judges Paul Hoffman and Donald Gray to Sub-district 7B.

3. Continuing the maintenance of permanent chambers in Moorhead, Fergus Falls, Little Falls and St. Cloud.

4. Location of the District Administrator at Alexandria, Minnesota.

5. Continuance of the County Court District of Sherburne, Benton and Stearns.

APPENDIX 2

The Seventh Judicial District Bar Association and its Redistricting Committee respectfully submits the attached memorandum in support of its Petition for continuance of the Seventh Judicial District as it presently exists.

This memorandum will attempt to review, as briefly and concisely as possible, the developments in this matter of redistricting the Seventh Judicial District, and the basis for the preparation and filing of this Petition.

MEMORANDUM

The 1977 Court Reorganization Act, Chap. 432, Minnesota Session Laws 1977, is the authority for the alteration of judicial district boundaries by the Supreme Court, with the consent of the majority of the chief judges. M.S.A. 2.722, Subd. 2. The Seventh Judicial District's first confrontation with this matter was a recommendation mailed to the judges of the Seventh District in December of 1978 by the then Assistant Chief Judge of the district. The thrust of his proposal was a proposed integration of the county and district courts in the Seventh Judicial District, using the argument that the Chief Justice of the State Supreme Court had indicated that within a few years the trial courts of Minnesota would be totally integrated.

To examine this proposal, the then Seventh District Bar President Paul Flora appointed a district bar committee in late 1978, known as the Seventh Judicial District Redistricting Committee. Its members represented the entire geography of the Seventh District, including Moorhead, Detroit Lakes, Fergus Falls, Alexandria, Wadena, Little Falls, and St. Cloud. The members were predominently trial lawyers because it was concluded that the trial bar would be most directly affected by any proposed integration.

After several meetings, this committee forwarded to District Judge Donald Gray its suggestions towards resolution of the question of integration of the courts in the Seventh Judicial District. At an October 4, 1979, hearing in this Court, these suggestions were filed with this Court. Exhibit "A".

On or about April 26, 1979, the then Assistant Chief Judge of the Seventh Judicial District submitted to the Chief Justice of this Court, a redistricting proposal for the Seventh Judicial District including the creation of a new Eleventh Judicial District. Sometime later, evidently because strong sentiment surfaced in both the Seventh and Tenth Judicial Districts regarding proposed redistricting, a special redistricting committee for both the Seventh and Tenth Judicial Districts was created at the direction of the Judicial Planning Committee.

This committee consisted of six persons from each district, two lay persons, a district judge and county judge, a member of the bar, and a county commissioner. This committee met on August 20, 1979, September 17, 1979 and October 9, 1979. They were aided in their deliberations by materials furnished by the staff of the Judicial Planning Committee which materials were utilized by the committee in its determinations.

Included in those materials was a letter date August 8, 1979, from Susan Saetre, staff associate of the Judicial Planning Committee, outlining various redistricting options and stating:

> "Therefore the main problem that the committee must address is the overlap of current county court districts into two judicial districts." Exhibit "B".

At the committee's third and final meeting held on October 9, 1979, the committee, by vote of 7 to 4, voted to keep the Seventh Judicial District boundaries as they currently exist. Subsequent to that time, by letter dated October 24, 1979, a so-called "minority report" was filed with this Court although such report was neither authorized nor solicited by the committee.

On November 9, 1979, the Judicial Planning Committee Redistricting Sub-Committee met to give final consideration to redistricting of the Seventh and Tenth Judicial Districts and make its recommendation to the Judicial Planning Committee. After hearing extensive discussions on the issues from those in attendance upon said meeting, the Sub-Committee indicated they needed more time to consider the issue. A meeting was set for December 13th. At its December 13th meeting, the committee discussed the pros and cons, several options and, finally, on motion of Lawrence Harmon, State Court Administrator, unanimously passed a motion for creation of the new Eleventh Judicial District. At said meeting, Mr. Harmon indicated he would not want to recommend a plan to the Supreme Court that would require the Legislature to appoint new judges for a judicial district, adding that he favored the creation of a new Eleventh District because it would not require additional judges and it would provide a court administrator for the St. Cloud area. Judicial Planning Redistricting Sub-Commitee minutes, Dec. 13, 1979, p.5.

On or about December 19, 1979, Chief Judge Carroll E. Larson of the Tenth Judicial District wrote to this Court indicating his strong opposition to the creation of a new district. Exhibit "C". Later, by letter dated January 29, 1980, Honorable Paul Hoffman, District Judge in the Seventh Judicial District indicated to the Judicial Planning Committee that the Seventh-Tenth redistricting committees had agreed to the creation of an Eleventh Judicial District at an informal meeting on January 28th. It should be pointed out to this Court that this was not a meeting of the officially designated committees of the Seventh and Tenth Districts, but was an ad hoc committee formed without any apparent authority from this Court or any of its committees. The meeting was not called by the chairman of the special committee, Judge Larson, who in fact was not in attendance.

At a meeting of the full Judicial Planning Committee at the State Capitol on March 7th, arguments both in favor and against the creation of an Eleventh District were then again heard by the committee. As a result of this extensive discussion, the Judicial Planning Committee again returned the matter of redistricting to its redistricting sub-committee. This committee met on May 2, 1980, and adopted a motion recommending the creation of an Eleventh Judicial District following an opinion of Mr. Harmon that the 1977 Court Reorganization Act gives the Supreme Court the authority to set new judicial districts supersedes the legislature setting the number of district judges in each district and that the issue will ultimately be decided by the Supreme Court.

Subsequently, on May 10, 1980, at the annual meeting of the Seventh Judicial District Bar Association held at Wadena, Minnesota, the lawyers of the Seventh Judicial District, by a substantial margin, voted to retain the district boundary lines of the Seventh Judicial District as they presently exist. Exhibit "D". This resolution was then forwarded to the Honorable Gerald Kalina.

Chairman of the Judicial Planning Committee, by letter dated May 20 from the President of the Seventh District Bar Association.

The Judicial Planning Committee Redistricting Sub-Committee then decided to hold another public hearing, this time in Little Falls, Minnesota, ostensibly to obtain more information from the heart of the district, even though they had already recommended creation of the new district at the prior meeting of May 2, 1980. At that meeting, an overwhelming number of those in attendance, spoke firmly for the maintenance of the present Seventh Judicial District lines.

Following the Little Falls meeting, no further information was received by the Seventh Judicial District Bar Association, or members thereof, as to any recommendations submitted by either the Judicial Planning Committee, its special sub-committee or any other group or individual until the appearance in the November 7th issue of Finance & Commerce of the order of this Court setting a hearing date on December 19.

Upon inquiry, petitioners discovered that a regular meeting of the conference of Chief Judges, Assistant Chief Judges, and Judicial District Administrators was held on November 12. At that meeting, Mr. Harmon, State Court Administrator, presented his arguments in support of the creation of an Eleventh District, which arguments were appended to the minutes. In his remarks, at the conference, Mr. Harmon, who had been leading the effort for the creation of the Eleventh Judicial District for the last two years, pointed out that, in his opinion, the fact of county court districts overlapping judicial district boundaries was not sufficient cause to justify such radical surgery as the creation of a new judicial district to contain the affected counties. This conclusion, drawn after extensive hearings for the preceding two years, is a direct about-face from Mr. Harmon's earlier position, and the position of the Judicial Planning Committee, and its special redistricting

committee, constantly dwelling on the county court districts centered in St. Cloud overlapping into two judicial districts.

Having thus relegated what was primarily the most important consideration in redistricting to a minor role, Mr. Harmon then went on to state that the most persuasive argument for a new district was based upon its geographic configuration. Using that basis for argument, he draws three conclusions, generally:

1) The "burdens and expense of travelling" would be minimized.

2) Existing communities of interest would be preserved.

3) Judges would be allocated equitably according to population.

Petitioners propose to treate each of these conclusions as follows:

I.

BURDENS OF TRAVELING

The report speaks of substantial reduction of travel resulting from the creation of an Eleventh Judicial District. Harmon indicates that the distance between Moorhead and St. Cloud is 169 miles with a total distance between county seats of slightly more than 200 miles, obviously referring to the distance between Milaca on the east and Moorhead on the west. He shows the greatest distance separating county seats in the proposed Eleventh District to be 72 miles while in the reduced Seventh District, the distance would be 107 miles. Petitioners counter by showing that dividing the Seventh District into two divisions would result in comparable, if not shorter distances between county seats. The eastern division would extend 85 miles from Milaca on the east to Alexandria in the center of the district. The western division would extend 93 miles from Alexandria to Moorhead.

Harmon suggests that traveling such great distances by the judges is an extraordinarily inefficient use of scarce judicial resources. He fails to point out that "windshield time" is put in, not on chamber time, but on the judges own time.

In commenting on "windshield time", the memorandum reads, "the district judges of the Seventh District maintain chambers in specific counties, although they generally hold only one term of court per year there, while spending the rest of their time traveling elsewhere within the district". A literal translation of the phrase would suggest that when the judges are not actually sitting in their resident chambers, they are on the road from morning to night, which is plain unmitigated nonsense as any examination of the records of proceedings in counties other than resident chambers will reveal.

Travel time for attorneys and the public would not be affected. The business of the law is not determined by distance but by subject matter, the county of venue and not the judicial district being determinative of where the public and their counsel are required to travel. Whatever travel time is involved does not seem to have had any effect upon the effective administration of justice and it appears to petitioners that an inordinate amount of time was spent on this elusive factor in the report of the Judicial Planning Committee.

Harmon further suggests that the District Administrator, residing in Moorhead, does not provide adequate assistance to the courts in the eastern end of the district. We agree. That problem can be easily remedied by centrally locating the District Administrator as proposed in the Petition herein.

EXISTING COMMUNITIES OF INTEREST

WOULD BE PRESERVED

Community of interest in the Seventh Judicial District has been established for many years by the creation of four chambers in Moorhead, Little Falls, Fergus Falls and St. Cloud. It is not for someone outside the district to speak with knowledgeability and sensitivity as to the community of interest existing within the districts. Petitioners recognize this community of interest in proposing retention of existing district boundary lines. In its historical perspective, the Redistricting Sub-Committee of the Judicial Planning Committee ignored the obvious

community of interest shown at the various meetings by failing to adequately reflect in the minutes of its meetings the attitudes expressed by those most affected by the proposed redistricting.

Certainly, the Legislature, under its prior authority to create judicial districts, Article VI, Sec. 4. State Constitution, would have held a number of hearings prior to acting. The scenario followed in this redistricting attempt dramatically differs. Prior to the appointment of any committees composed of representatives of both the Seventh and Tenth Districts, this Court had already, in effect, on October 18, 1979, approved a proposal for the creation of the Eleventh Judicial District and as previously noted, when the Judicial Planning Redistricting Sub-Committee reconsidereed the Eleventh District proposal on May 2, 1980, it resolved to recommend the creation of a new judicial district prior to ever scheduling a public hearing on June 13, 1980, in Little Falls.

In addition, the Judicial Planning Committee in its report constantly dilutes the actions of those opposing its recommendation. For example, it refers to the Seventh - Tenth Special Committee's 7 to 4 vote as being a "divided vote" (p.2) and lays undue emphasis on a minority report, which, as previously noted, was neither authorized or solicited. It further discounts the importance of the June 13, 1980 hearing in Little Falls by stating "approximately 50 people attended the hearing and several testified regarding the proposed plan. No consensus was apparent among the guests present", when, as a matter of fact, the hearing room was crowded and almost all of those in attendance opposed the creation of an Eleventh District. There was a clear consensus apparent but not what the Judicial Planning Sub-Committee wanted.

ALLOCATION OF JUDICIAL WORK LOAD

The demographic report shows population projections for the Seventh and Tenth Judicial Districts for 1980 and 2000. Exhibit "E". Careful examination of these figures leads to the following conclusions:

allocation of judicial workloads) have not been established on any fact basis sufficient to sustain redistricting. In fact, the record is amazingly devoid of any fact-finding. Therefore, no reasons of substance having been given and supported by competent evidence, the petition to redistrict must fail.

There are severe constitutional questions that also present themselves but petitioners leave those questions to this Court to resolve, keeping in mind the requirements of Article VI, Secs. 4 and 7 of the State Constitution.

Finally, in what must be considered an affront to the entire Seventh Judicial District Bar Association, the Judicial Planning Committee Redistricting Sub-Commitee argues that the proponents of the status quo plan primarily cited personal interests as the reasons for maintaining the present division. Historical Perspective, p.6. Petitioners challenge the Judicial Planning Committee to produce evidence supporting such statement in any of the records heretofore prepared and filed with this Court. An examination of the record will reveal only that that was an accusation constantly leveled at opponents of redistricting by those in support thereof.

The Judicial Planning Committee Redistricting Sub-Committee concludes:

> The most persuasive argument supporting the proposal to create an eleventh district is that the plan is a logical and efficient solution to the problems in the judicial districts and meets the criteria set forth by the Supreme Court. Historical Perspective, p.7.

There are no problems in the Seventh and Tenth Judicial Districts that have ever been clearly identified, either to the lawyers or judges of each district, or to the special committees appointed to represent those interests. There have been no complaints in the Seventh Judicial District by anyone concerning the prompt disposition of cases. There is no showing that the creation of a new district would result in the more efficient administration of justice. The entire report of the Judicial Planning Committee seems to be based upon some supposition that change is progress.

Mr. Harmon, in his remarks delivered to the Conference of November 12, 1980, rather frivolously states:

> "While the old adage "If it ain't broke, don't fix it" is undeniably true, it is equally true that remedial action may appropriately be undertaken to solve problems before they become intolerable: don't wait until it breaks to improve it."

There "ain't" no problems in the Seventh District and there "ain't" no way an Eleventh District will improve the administration of justice. There has not been presented clear and convincing evidence of a need for what the State Court Administrator referred to on November 12, 1980, as "such radical surgery as the creation of a new judicial district".

Finally, it should be pointed out to the Court that Harmon, in his remarks to the Conference of November 12, 1980, recommended that the "petition of the Seventh Judicial District to create an Eleventh District be approved." There has never been any petition of the Seventh Judicial District submitted other than this petition ~~and that~~ which is to maintain the district lines as they presently exist.

Respectfully submitted,

SEVENTH JUDICIAL DISTRICT
BAR ASSOCIATION

By:

Ralph S. Tillitt

Ralph Tillitt, President

SEVENTH JUDICIAL DISTRICT
REDISTRICTING COMMITTEE

By:

Roger J. Nierengarten

Roger J. Nierengarten, Chairman
by RST

Office of
ANOKA COUNTY ATTORNEY

ROBERT W. JOHNSON

Courthouse - Anoka, Minnesota 55303 *612-421-4760*

December 12, 1980

Mr. John McCarthy
Clerk
Supreme Court of Minnesota
St. Paul, Minnesota 55155

RE: NO. 51882

Dear Mr. McCarthy:

Enclosed are an original and ten (10) copies of the brief of Anoka County relating to the creation of the Eleventh Judicial District.

Oral argument is hereby requested.

Very truly yours,

Stephen L. Muehlberg
Assistant County Attorney

SLM/cs
Encls.

NO. 51882

STATE OF MINNESOTA

IN SUPREME COURT

In the Matter of the Redistricting of the County Courts in the Seventh Judicial District and the Creation of a New Eleventh Judicial District	BRIEF OF THE COUNTY OF ANOKA

PROCEDURAL HISTORY

On October 14, 1980, the Judicial Planning Committee through its Subcommittee on Redistricting petitioned and recommended to the Supreme Court that there be created in Minnesota a new Eleventh Judicial District. On October 27, 1980, the Court entered its order setting a hearing for December 19, 1980; providing for publication of the notice of the hearing and requiring those in opposition to file briefs and show cause why the plan should not be adopted.

A R G U M E N T

THE COUNTY OF ANOKA TAKES NO POSITION ON THE CREATION OF AN ELEVENTH JUDICIAL DISTRICT.

It is the position of Anoka County that, should the Supreme Court, or the Legislature, procede to create an Eleventh Judicial District, this county will take no position for or against the creation of same such district. This county is less concerned with how district lines are drawn than it is with the number of district judges who will be available to try cases in Anoka County.

BECAUSE OF ITS RECENT AND ANTICIPATED POPULATION GROWTH, ANOKA COUNTY REQUIRES THE SERVICES OF MORE, NOT FEWER, JUDGES.

The Supreme Court Report for 1980 indicates that there were 4,301 new civil filings and 1,155 new criminal cases filed in the

district courts of the Tenth District in 1979. Of those, 1,669 of the new civil filings (39%) and 546 of the new criminal filings (47%) were Anoka County cases. We project that there will be a total of 550 new felony and gross misdemeanor filings in Anoka County by the end of 1980. (The Anoka County statistics were obtained from the Anoka County Clerk of Court.)

In 1978, in response to notice from the State of Minnesota of its intent to terminate a lease of county juvenile facilities, Anoka County undertook a study which was followed by a Correctional Facilities Plan. The draft of that plan projects a population for Anoka County of approximately 195,000 persons in 1979 and 225,000 persons by 1985, a growth of 12.5% in just six years.

The growth of the 18-24 year age group during the same period increases from approximately 29,000 persons in 1979 to 33,000 persons in 1985. That increase is 13.8%. More striking is the growth in the 25-29 year age group. It increases from about 17,000 persons in 1979 to about 24,000 persons in 1985. The growth in that age group is 41%. It appears that persons in those age groups commit most felony crimes.

The same study states that there will be an increase in correctional system demand of from 10% to 30% between the time of the report, 1979, and 1990. That not only means an increase is necessary in Anoka County's capacity to house prisoners, it also means a substantial increase will be necessary in the number of judges, including district judges, available to serve on criminal cases in Anoka County in that period. If population growth and increased criminal activity correlate, then the demands of the district court system in Anoka County will increase dramatically in the near future.

Even if there is no direct or proportional increase in criminal

activity to population growth in the next five to ten years, there will nevertheless be a dramatic increase in criminal cases during that period. Other factors may cause increases in criminal case volume.

The changing nature of Anoka County has and will result in increased felony and gross misdemeanor prosecutions.

Anoka was formerly a rural county. It has now become urbanized. It has become urban to the point where it has become necessary to develop a white collar crime unit within the County Attorney's Office to investigate and prosecute that particular group of crimes.

Other changes and developments in the law and public awareness have put demands on the court system. The speedy trial rule, providing for trial within sixty days of demand or not guilty plea, has added some pressure on the court system. The statute which requires the reporting of incest-type sexual abuse and other types of child abuse, M.S. 626.556, has caused an increase in both the investigative and prosecution case load. From a mere 30 cases of those types of abuse reported in Anoka County in 1979, the number has increased to more than 70 so far this year. There is no indication that that trend will change.

The impact of the recession has added pressure. There are additional cases involving thefts of various kinds. The first theft by a public employee in many years is being investigated currently.

THE PROPOSED REDISTRICTING PLAN PROVIDES NO RELIEF FOR AN INCREASING ANOKA COUNTY DISTRICT COURT CASELOAD.

Nothing in the proposed plan provides any help to the district courts in Anoka County. It only says "the expressed need for additional judgeships in the Tenth Judicial District should be evaluated." What

help it provides to the Tenth District, by loaning us Judge Carroll Larson "until retirement, resignation or death" is a stopgap approach which does not take into account the needs of Anoka County in the 1980's. The promise to evaluate the "expressed need for additional judgeships in the Tenth Judicial District" does not rise to even the level of hope for relief.

C O N C L U S I O N

Because the proposal of the Subcommittee on Redistricting does not provide for the increasing needs of the citizens of Anoka County for more district court judges, we oppose the proposal at this time. First the legislature should establish and fund additional judgeships in the Tenth District, generally, and Anoka County particularly. Then, the proposal for the creation of a new district should be considered.

Respectfully submitted,

ROBERT W. JOHNSON
Anoka County Attorney

By _____
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SHERBURNE COUNTY, MINNESOTA

Office of the County Attorney
321 Lowell
Elk River, Minnesota 55330
612 441-1383

December 12, 1980

Honorable John McCarthy
Clerk of Supreme Court
State Capitol Building
St. Paul, MN

51882

Dear Sir:

Enclosed herewith is the Petition of Sherburne County in opposition of the JPC to form a new Eleventh Judicial District.

I would also request an opportunity to present oral arguement on December 19, 1980 in behalf of Sherburne County.

Very truly yours,

John E. MacGibbon
Sherburne County Attorney

JEM:dap

Enc.

NO. 51882

STATE OF MINNESOTA

IN SUPREME COURT

In the Matter of the Redistricting of the County Courts in the Seventh Judicial District and the Creation of a New Eleventh Judicial District	PETITION OF SHERBURNE COUNTY OPPOSING THE CREATION OF A NEW 11TH JUDICIAL DISTRICT AND COUNTY COURTS THEREIN

The County of Sherburne opposes the Petition of the Judicial Planning Committee for the creation of the new 11th Judicial District and the County Courts designated therein. This opposition is based upon five basic considerations:

(1) The proposal is unnecessary, without significant local input, without local support, and a subversion of the initial effort to realign the Judicial District, itself without reason or support.

(2) There are constitutional problems implicit in the proposal which have not been addressed or resolved.

(3) There are geographic, logistical and fiscal factors that are detrimental to Sherburne County.

(4) The proposal has, as one of its purposes, the facilitation of judicial administration, under a so-called "unified court" a concept not yet enacted by the legislature.

(5) The proposal requires that certain Judges be permanently or temporarily assigned outside the districts of their residency. These Judges will not agree to such assignment and the proposal should be rejected for this reason, alone.

I. HISTORY AND SOURCE OF MOVEMENT TO REALIGN JUDICIAL DISTRICTS

Sherburne County is one of the eight counties in the 10th Judicial District. Prior to 1957 it was one of four counties in the 18th Judicial District which merged with the 19th Judicial District to form what is now known as the 10th Judicial District. Sherburne County has a population of approximately 30,000 people which includes a part of the City of St. Cloud. The Municipal Court of the City of St. Cloud has historically provided judicial

service to all three counties comprising parts of the City. The County Court Act of 1971 formed the same three counties into a single county court district. The County Court Act also provided that the part of the County within the city limits was for all purposes of the County Court Act, a part of the County in which the City Hall is located (Section 487.21 Subdivision 4 of the Minnesota Statutes). In addition to correcting any venue problems, the County Court Act also provided for an equitable distribution of fines and fees (Section 487.33 of the Minnesota Statutes). The County Court District is served by five Judges and the 10th Judicial District is served by six Judges none of whom reside in or maintain their chambers in Sherburne County. Judicial service by the District Court and by the County Court has generally met the needs of the County and no complaint has been registered concerning such service.

In 1977 the Sherburne County Board received information that one or more of its County Court Judges was seeking to have Sherburne County detached from the 10th Judicial District and made a part of the 7th Judicial District. No citizen of Sherburne County, member of the Bar, County Board member, or other Public Official was privy to this movement or had any formal confirmation thereof until January 30, 1978, when a letter from Judge Klaphake, one of its County Court Judges, then assistant Chief Judge of the 7th Judicial District, was sent to the members of the District Bar Association. Judge Klaphake was then a member of the Special Supreme Court Committee on Trial Court Redistricting and stated that the review of County Court and District Court boundaries where County Court Districts lines crossed Judicial District lines was high on the agenda of this Committee and proposals were being considered including the detachment of Sherburne County from the 10th Judicial District and annexing it to the 7th District. Sherburne County reacted almost immediately through its Board of Commissioners, by adopting a resolution on February 21, 1978,

hereto attached as "Exhibit 1", opposing such realignment. Although the proposed realignment affected law enforcement, probation personnel, members of the Bar, public defenders and County Boards, and thus the Association of Minnesota Counties did request membership on the so-called "Yetka Commission" as early as November 25, 1977, the discussion and dialogue concerning this particular realignment was with the Judiciary or among the Judiciary. On September 20, 1978 a letter was written by the State Court Administrator to the Tenth Judicial District Administrator setting forth certain guidelines applicable to redistricting, a copy of which is attached as "Exhibit 2". No other documentation of the meetings, progress or reports of the "Yetka Commission" were circulated to the affected counties or Bar associations. The matter was further complicated by a change in the responsibility for redistricting matters to the Judicial Planning Commission the meetings and progress of which,were equally obscure until August of 1979 and the appointment of the Special Committee. This action was taken pursuant to a report to the Court under date of May 30, 1979, containing the following:

> "3. That it is the position of the subcommittee that there has been insufficient public involvement as to the balance of the proposed plan for the Seventh District. The proposed plan submitted by the judges contemplates changes in the judicial district boundaries.
>
> It is the request of the subcommittee that the Supreme Court authorize a commission to study this matter and conduct public hearings. The proposed commission would consist of a district court judge from the Seventh District and one from the Tenth District, a county court judge from each of the two districts, a member of the bar association from each of the two districts, and two lay persons from each of the districts. The lay persons on the commission would be selected by the chief judge of the respective district. The other members would be selected by and from their respective associations. The commission would be chaired by a chairman elected by the commission, and Susan Saetre of the Judicial Planning Committee would act as staff person to assist the commission. It is contemplated that the commission would be formed no later than July 1, 1979, and would submit its final written report no later than October 15, 1979.
>
> Because of possible election problems in Douglas, Todd and Wadena, it was felt that this district should be established as soon as possible. If this were accomplished there seems to be no reason not to proceed immediately to establish the district consisting of Clay, Becker and Otter Tail Counties."

The County of Sherburne urges that it is most significant that following the directives of this Court and the JPC, this committee did conduct public hearings and did come up with a recommendation by a 7 to 3 vote of its members that there be no realignment of Judicial District boundaries.

It is confusing to Sherburne County and certainly frustrating to some of the persons who have served on said special committee that the JPC acting through its subcommittee on redistricting unanimously rejected the recommendations of this committee and adopted what purported to be a minority report authored by Judge Willard P. Lorette, one of the five County Court Judges. Judge Lorette's report supports the formation of a new Judicial District. Members of the Bar, Judges, and lay members of the Special Committee have repeatedly spoke against the creation of the 11th Judicial District and appeared in opposition thereto at the several meetings of the JPC and its subcommittee on redistricting, all to little or no avail. The fact that the recommendation of the Special Committee was rejected, almost out of hand, caused many members of this committee to be concerned whether their mission had been as indicated by the JPC on May 19, 1979, or merely to confirm some foreordained direction in the redistricting process. This concern was not alleviated by the presence of the State Court Administrator, as a full voting member of the JPC subcommittee and the member who first made the motion to create the new 11th Judicial District. Members of the Sherburne County Board, this writer, and many others have repeatedly sought the reasons for the realignment proposed by an Eleventh Judicial District, in order that they may address these reasons, make a proper evaluation of the merit thereof, or lack of merit, and respond thereto. No such information concerning the involvement of Sherburne County has ever been supplied by the proponents of the realignment described in the JPC Petition.

If the fact that Sherburne County was in the Tenth Judicial District and the two remaining counties of the County Court District were in the Seventh Judicial District presented a formidable judicial administration problem, an unsupported and undocumented comment by some proponents of the JPC proposal, it is surprising that these counties and court districts functioned well before the advent of any court administrator authorized by the Court Reorganization Act of 1977, and that while addressing the Special Committee on redistricting in August, 1979, neither the administrator of the Seventh Judicial District or Tenth Judicial District considered such division of counties into two Judicial Districts as a problem, or a realignment of Judicial Districts as a solution to any problem. If the persons directly responsible for judicial administration in these districts perceive no such problem, the proponents of change have a heavy burden to justify their intervention under such circumstances and document the problem as they see it, and reasonableness of the remedy they propose. The record is devoid of such supporting documentation leaving this Court in the sensitive posture of accepting the proposal without documentation or proof against the opposition of almost all persons and groups related to the judicial process on the affected areas, or in the alternative moving this Court on a fact finding task in order to justify the proposal, which task would be inconsistent with the normal business of this Court, and its personnel.

Finally, the focus of the proposal of the JPC has shifted drastically from a Sherburne County problem, which now seems of minimal significance to even the JPC, to an over-large Seventh Judicial District problem. Because appending Sherburne County to an over-large Seventh Judicial District made no sense at all, the principal focus of the JPC proposal is What can be done for the 7th? Aside from emphasizing that the problems of size, logistics and judicial administration of the Seventh Judicial District are not problems of

Sherburne County, Sherburne County will leave the response to this aspect of the proposal to the Judges, Bar Associations and citizens of that District.

The proposal of the JPC is opposed by the Seventh District Bar Association and by the Eighteenth District Bar Association representing four of the eight counties in the Tenth Judicial District. There is no viable Tenth District Bar Association. The vote of the Eighteenth District Bar was unanimous in opposition and overwhelmingly against the proposal in the Seventh District. The six District Court Judges of the Tenth Judicial District opposed the proposal. Judge Gray and Judge Kennedy, two of the four District Judges in the Seventh Judicial District opposed the proposal. The proposal is not supported by any governmental body, any Bar Association or any citizens group. The only attempt by the JPC to take the issue to the people in the area being affected via the Special Committee on redistricting chaired by Judge Carroll Larson in the Fall of 1979, came down firmly and overwhelmingly against the proposal. To suggest that the members of the Bar Associations, who oppose the proposal would do so if they saw the proposal benefiting the judicial system would be to question their credibility. These lawyers and Judges are as interested in developing and maintaining a good and workable judicial system in their respective areas as is the JPC, if not more so, and it is axiomatic that they have worked closer to their respective courts and have a better first-hand knowledge of existing problems that do the members of the JPC. Why then force upon the bench, the Bar, the governing bodies and the citizens of the affected areas a system that they do not want and a system which in their opinion serves no useful purpose?

The very way the proposal has been handled has generated hostility toward it. The suspicion of the members of the Special Subcommittee chaired by Judge Carroll Larson that the JPC was not completed candid in its report of May 30,1979, saying that there has been insufficient public involvement in this

issue and the Special Committee should be created for the purpose of increasing the public involvement was confirmed when the report of this Special Committee was rejected by an unanimous vote of the redistricting subcommittee of the JPC. Not even one member who on May 19, 1979, joined in an expression of need for public involvement regarded such involvement and the report of this committee as persuasive. Lawyers and Judges are reasonable people. If there is some master plan that should be adopted for the benefit of the judicial system, a simple statement of the reasons for such would probably convince the majority of the necessity therefor. Here the public, the bench and the Bar have not been given the reasons for or informed of the existence of such a plan; yet their input even though minimal and their support of alternatives, including the Status Quo, has been rejected.

II. CONSTITUTIONAL PROBLEMS

Section 4 of Article VI of the Minnesota Constitution provides:

> "Judicial districts; district judges. The number and boundaries of judicial districts shall be established in the manner provided by law but the office of a district judge shall not be abolished during his term. There shall be two or more district judges in each district. Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office."

Section 8 of Article VI of the Minnesota Constitution provides as follows:

> "Vacancy. Whenever there is a vacancy in the office of judge the governor shall appoint in the manner provided by law a qualified person to fill the vacancy until a successor is elected and qualified. The successor shall be elected for a six year term at the next general election occurring more than one year after the appointment."

If the new Eleventh Judicial District is formed pursuant to the petition of the Judicial Planning Committee, said Article VI provides that it must have two district judges. If Judge Paul Hoffman, a resident of Stearns County, and Judge Carroll Larson, a resident of Wright County, are deemed to be district judges of the Eleventh Judicial Districts by reason of their respective residencies, does this not create vacancies in the Seventh Judicial District and in the Tenth Judicial District which pursuant to the provisions in Section 2.722(7) and Section 2.722(10) of the Minnesota Statutes requires four judges for the Seventh Judicial District and six judges for the Tenth Judicial District. If vacancies are thus created in the Seventh and Tenth Judicial Districts respectively, the governor by reason of said Article VI is compelled to fill these vacancies; whether these vacancies occur in the existing Seventh and Tenth Judicial Districts as indicated or in the new Eleventh Judicial District assuming that Judges Hoffman and Larson continue as judges in their respective existing judicial districts,

the action of this court would require the governor to appoint at least two district judges for which no salary or other emoluments of office have been provided by the legislature. If the court were to grant the petition of the Judicial Planning Committee, would this not provoke a confrontation between the judicial and legislative branches of state government? No where is authority cited nor in the opinion of this writer is the authority available supporting the contention that the assignment of Judge Larson to the Tenth Judicial District would prevent a vacancy in the judges of the Tenth Judicial District.

If it does require legislation to fully implement the provisions of the Judicial Planning Committee, any action taken by this court prior to the enactment of the needed legislation would either place the legislature in the uncomfortable position of passing legislation to fund two district judges or to leave two district judges in this state without provisions for salary or other emoluments of office, a most impossible situation.

Implicit in the proceedings of the Judicial Planning Committee and referred to in Item 6 of Appendix 1 attached to said petition, is the suggestion of contingency in acting upon the petition of the JPC. Even the JPC recognizes that legislative funding is required for the district administrator of any new judicial district. All the reasons advanced and questions raised concerning the creation of vacancies or judgships in the judicial districts are certainly appropriate with reference to the district administrator. It is not even clear from the petition that the JPC is recommending action only in the event of favorable legislation or action in any event. A constitutional question is raised if the judicial branch of government can increase the expenditures of state government and the funding necessary to meet such expenditures in an amount that could reach $200,000.00 per year without previous legislative action required by the provisions of Article VI, Section 18 of the Minnesota Constitution.

Any argument supporting the authority of this court to act without appropriate funding by the legislature must apply to such judicial action without limit to the number of judicial districts or district judgships created thereby. Certainly, the legislature has not intended to give the court carte blanche in the creating of additional court administrators and district judgships. There must be a limit on the exercise of this judicial function and that limit lies immediately before such judicial action requires the expenditure of any public appropriations.

If the court were to resolve this dilemma by making its order contingent upon appropriate legislative action, in addition to the uncertainties that would run rampant as a result thereof, concerning its effective date, problems of any disparity between the legislative action and the order of this court and the timeliness in which the legislature must act, there are serious political considerations which are not the purpose of the memorandum to enumerate or consider.

The provisions of Section 2.722, Subdivision 2 of the Minn. Stat. authorizing the Supreme Court with the consent of the majority of chief justices to alter the boundaries or change the number of judicial districts must be subject to the implied limitation that the court cannot compel the increase of public expenditures thereby. Action creating additional judgships and court administrators must by its very nature be a function of the legislative branch of said government because it is the only branch of government that can provide the funding and the vacancies as a simultaneous act.

III. THERE ARE GEOGRAPHIC, LOGISTICAL AND FISCAL FACTORS THAT ARE DETRIMENTAL TO SHERBURNE COUNTY

Sherburne County expresses its objection to the Petition of the Judicial Planning Committee for certain logistical and practical reasons, including the following:

1. Elk River, the county seat of Sherburne County, is located approximately 12 miles from the county seat of Anoka County. Anoka County usually has from two to four District Judges present at any given time. This serves Sherburne County's needs by providing judicial service within 12 miles or 15 minutes of the county seat of Sherburne County. Under the proposed Eleventh Judicial District, the City of St. Cloud would become the focal point thereof, and the travel distance of 36 miles to Stearns County Courthouse in the City of St. Cloud would involve 3 times the travel distance and time than to get to the City of Anoka. In today's energy crisis, this consideration alone should almost be controlling. While in the Tenth Judicial District, the county seat of Sherburne County is easily reachable by a District Judge traveling from Buffalo to Anoka, from Buffalo to Cambridge, Buffalo to Mora and Buffalo to Pine City. Sherburne County's position in the proposed Eleventh Judicial District would be at the extreme southernmost point and the county seat, Elk River, would not be at the crossroads of any such judicial travel. The contention that Sherburne County would have equivalent or better judicial service in the Eleventh Judicial District, than in the Tenth Judicial District, is inconsistent with these plain geographical and logistical facts.

2. Court reporter salaries are allocated among counties in a judicial district under a formula based upon population. Section 486.05 M.S. A move from the Tenth to the Eleventh Judicial District would increase the contribution

of Sherburne County by several thousand dollars based upon 1980 projected populations. The revenue that can be raised by counties is subject to a dollar limitation under a complicated formula, describing a levy limit base and certain permitted increases therein is set forth in Sections 275.50 to 275.56 Minn. Stat. Because Sherburne County is a rapidly growing county, it is already levying to the extent of this statutory limit. The increased expense described in this paragraph is not one of the statutory reasons for raising this limit. Therefore, not only would the JPC proposal increase expenses paid by Sherburne County towards reporters' salaries, Sherburne County could not increase its levy to meet the expense but would have to meet the expense by reducing governmental services in other areas in government. The impact on Sherburne County has not been addressed, studied or resolved by the JPC report.

3. Sherburne County has developed a good working relationship with the Tenth Judicial District Public Defender's office based at Buffalo, Minnesota, 23 miles distant. Not only would this relationship be terminated by the Eleventh Judicial District and with the usual interval of adjustment to a new defender's office and staff, the Tenth Judicial District itself, would lose its Public Defender, who resides in Wright County. Considering that Walter Johnson, the Tenth Judicial District Public Defender, has 27 years experience as a County Attorney and almost 18 years as a Public Defender, this is not an inconsequential lose.

4. The Sherburne County Board of Commissioners has reaffirmed its opposition to redistricting in "Exhibit 3", and the City of Elk River has also voiced its objection in "Exhibit 4".

IV. THE PROPOSAL HAS, AS ONE OF ITS PURPOSES, THE FACILITATION OF JUDICIAL ADMINISTRATION, UNDER A SO-CALLED "UNIFIED COURT" A CONCEPT NOT YET ENACTED BY THE LEGISLATURE.

A. The primary objective of the redistricting effort is to expand county court districts according to the court administrator as set forth in Exhibit 2. The ultimate proposal of the Judicial Planning Committee is to decrease the size of the county court district containing Sherburne County rather than expand it. Exhibit 2 does not contain any other offsetting criteria that would justify such departure from the original guidelines.

B. Exhibit 2 contains the following paragraph:

> "Larger county court districts (particularly those which will be virtually coterminous with district court judicial districts) will prepare local judges, administrators, county boards and the public both practically and psychologically for the possibility of a unified court system. We may this begin to realize the benefits of unification as a consequence of redistricting. Among the anticipated advantages are the following:
>
> a. Judges will begin to cooperate with one another across county lines, recognizing their obligation to a larger district than they have had heretofore. Since this larger judicial district will also constitute an election district, county judges will be stimulated to become involved in judicial business outside of the counties in which they reside;
>
> b. Judges will be encouraged to specialize in certain areas of the law. Their assignments may be made with more flexibility to recognize their expertise in specialized fields;
>
> c. Larger county court districts will expand the number of attorneys in a geographical area who will be available for gubernatorial appointment.

There may be merit to a unified court system and eventually the State of Minnesota may have a unified court system. Because it does not have a unified court system at this time it can only come about if the legislature addresses this issue and acts accordingly. There are many good thinking members of the bar that may disagree with this eventuality and would like to be heard on the issue at the proper time and place. There are other good thinking members of the bar who are so preempted by the day to day practice of law that they have not had the opportunity to make a proper evaluation and take a position on this

issue simply because it has not been a high profile issue up to this time. And what of the public input? Certainly the public has a right to be heard before this State adopts a unified court system. To predicate court redistricting upon the concept of a unified court seems both presumptuous and unwise. If the unified court does not become a fact, we will be saddled with judicial districts and county court districts serving a purpose different from that for which they were designed. Further, the presumption may be counter-productive in creating opposition to the concept by treating it as a law before it actually becomes a law. The Sherburne County Board has expressed an interest in this issue and desires to be informed of the arguments for and against it before the Board takes its position.

C. Section 2.722, Subdivision 2 of the Minnesota Statutes provides that the Supreme Court may alter the boundaries or change the number of judicial districts with the consent of the majority of the chief justices. Early on in these proceedings we were informed by the staff personnel of the JPC that notwithstanding the clearly permissive language in the act, the act was being interpreted as a mandate by the legislature for the Supreme Court to redistrict. Section 487.01, Subdivision 6 as amended by the Laws of 1977 was also said to be a mandate to redistrict. It was also made known that if the court did not exercise its statutory power, certain legislators had expressed the belief that the legislature would revoke such power. This mandate insofar as it relates to county court districts is reiterated in the memorandum attached to the order of this court in the matter of the redistricting of the Third Judicial District entered on April 16, 1980. Here again we were advised that we cannot rely on the permissive language in which these statutes are couched but must be alert to undercurrents of legislative thinking that are not embodied in the statutes. This is an unfortunate circumstance and places the individual, who is not privy to such

undercurrents, in a difficult posture. How do those persons respond to such an argument? Is it not implicit in this interpretation that all county court districts established by the legislature require redistricting? Certainly the court's statement that absent any local redistricting to establish smaller multi-county court districts, county court districts would become coterminous with judicial districts as of July 1, 1981, thereby requiring the five county court judges of the Sherburne, Stearns and Benton County Court to run in a district consisting of the combination of the Tenth and Seventh Judicial Districts and extending from Moorhead and the North Dakota border on the west to Stillwater and the Wisconsin border on the east, has at best offered no solution to any judicial administrative problems, and at worst caused sufficient concern among those affected so as to inhibit their objective participation in the redistricting effort.

V. THE PROPOSAL REQUIRES THAT CERTAIN JUDGES BE PERMANENTLY OR TEMPORARILY ASSIGNED OUTSIDE THE DISTRICTS OF THEIR RESIDENCY. THESE JUDGES WILL NOT AGREE TO SUCH ASSIGNMENT AND THE PROPOSAL SHOULD BE REJECTED FOR THIS REASON, ALONE.

A. The opposition to the JPC proposal has had other important ramifications. Chief Judge Carroll Larson of the Tenth Judicial District has submitted an angry resignation as chief judge because of the proposed Eleventh Judicial District. Judge Larson has also informed the court that he will not consider the permanent assignment to the residual Tenth Judicial District which would not include Wright County, his residence. Aside from the personal considerations of Judge Larson, a judge of many years experience that he could not sit in his own county during his remaining years as judge, but must travel to various destinations within the residual Tenth Judicial District, there is the legal question of how such permanent assignment could circumvent the clear mandate of Article VI of the Minnesota Constitution that a district judge reside in the Judicial District he serves. The proposal certainly will not work at all if Judge Larson does not accept such permanent assignment and he has clearly stated his intentions in this regard. Judge Kennedy of the Seventh Judicial District has also expressed his opposition to the proposal and his unwillingness to accept temporary assignment to the Eleventh Judicial District. If neither Judge Larson nor Judge Kennedy accept the proposal, it must fail.

B. It is interesting that the minutes of the Judicial Planning Committee of September 26, 1980, considering the Eleventh Judicial District questions do not deal with nor dilineate the county court districts within the Eleventh Judicial District. This is probably an oversight, but a reading of these minutes then confirms again the fact that the die had already been cast and that things would proceed notwithstanding the omission of such details.

C. The problem of County Court Judges, Section 487.01, Subdivision 3 provides in part as follows:

> "A combined county court district may be separated into single county courts by the supreme court.--
>
> "The single county court districts so created by such separation shall each be entitled to one Judge, --."

Section 487.01, Subdivision 6 of the Minnesota Statutes provides in part as follows:

> "For the more effective administration of justice, the supreme court may combine two or more county court districts into a single county court district."

Sherburne County contends that the two statutes above quoted describe a two-step process for the realignment of County Court Districts. In the first step, the County is separated from its existing County Court District and the language of the statute requires the separated county to have at least one County Court Judge. Sherburne County having no resident County Court Judge would appear to have a vacancy in such office if separated from its present County Court District. Will the fact that this Court may take these two consecutive steps on the same day or even at the same hearing, negate the creation of such vacancy following the first step? If the vacancy is created, is not the Governor compelled to fill the vacancy and from what source is funding therefor to be drawn?

Section 487.01, Subdivision 5 (5) of the Minnesota Statutes provides in part as follows:

> "The number of judges to be elected may be increased by the county board of the affected county or by the concurrence of the county boards of those affected counties combined into districts; provided that no new judge positions authorized pursuant to this section may be created without specific statutory authorization.--"

Does not this statute conflict with Paragraph 3 of Appendix 1 of the JPC Petition and Proposal? The power of this court to separate County Court Districts and combine County Court Districts as set forth in Section 487.01, Subdivision 3 and Subdivision

6 does not authorize this Court or any Court to transfer vacant judgeships in County Court Districts. The number of these Judges is a perrogative of the County Board and the legislature.

The same paragraph also recommends temporary judicial assignments. What is the impact of this on judicial vacancies and the perrogative of the County Boards and legislature? This section raises questions, the resolution of which may take years of litigation. Certainly, at this time, this Court is not authorized to deal with questions of judicial residence. Such questions are implicit in the recommendations of this paragraph.

REVIEW BY CHIEF JUDGES

The part of Section 2.722, Subdivision 2 of the Minn. Stat. requiring consent (not concurrence) of a majority of the chief judges to any alteration of boundaries or change in the number of judicial districts is unique in Minnesota law. The decision of our highest appellate court becomes the subject of review by a different body. Any contention that the legislature intended thereby only a perfunctary review, and that the consent described is somehow analogous to appellate review where reversal requires a finding of error by the "trial court," would be inconsistent with Section 645.17(1) Minn. Stat. Sherburne County contends there are certain minimum conditions implicit in said Section 2.722, Subdivision 2, specifically:

a. The supreme court must act first or there would be nothing to which the chief judges could consent.

b. Due process would require some procedures for a party aggrieved by the decision of this court to present its case to the chief judges.

c. It would be inappropriate for any representative of this court to lobby or advocate its decision before the chief judges.

d. The chief judges would be acting as individuals and not necessarily representing the views of their respective districts.

This position of the chief judges is not unlike that of the U. S. Senate as set out in Article II, Section 2 of the U.S. Constitution, wherein the advice and consent of the Senate is only rendered after an appropriate hearing.

For the foregoing reasons the County of Sherburne respectfully requests this Court to reject the Petition of the Judicial Planning Committee to form a new Eleventh Judicial District.

John E. MacGibbon
Sherburne County Attorney
321 Lowell Avenue
Elk River, MN 55330
(612) 441-1383

"Exhibit 1"

RESOLUTION AGAINST CHANGE OF

JUDICIAL DISTRICT

Commissioner Lyle Smith, introduced the following Resolution and moved its adoption.

WHEREAS, the County of Sherburne has been a part of the Tenth Judicial District for at least 15 years, and before that of the Eighteenth Judicial District; and

WHEREAS, measured in terms of quality and availability of judicial service in the District Court, this Board has been well satisfied and been presented with no complaints suggesting any problem in the delivery of such judicial service; and

WHEREAS, the Bar and the Court Clerk and employees of this County have evidences satisfaction to this Board of the delivery of such judicial service; and

WHEREAS, this Board believes that a highly competent public defender service has been developed in the Tenth Judicial District to which service its citizens, if otherwise eligible now, have recourse; and

WHEREAS, this Board sees many similarities between its problems and the problems of the other counties comprising the Tenth Judicial District; and

WHEREAS, this Board is presently satisfied with the delivery of judicial services in Sherburne County through the County Court as presently constituted, and sees no compelling reason to realign either the County Court District or the Tenth Judicial District; and

WHEREAS, this Board has been advised by the Sherburne County Attorney that in discussions and meetings are being conducted with the end in view of realignment of the Tenth Judicial District.

NOW, THEREFORE, BE IT RESOLVED:

1. That this Board does hereby oppose any realignment of the Tenth Judicial District, particularly a realignment that would exclude Sherburne County from the Tenth Judicial District for reasons that the

District has presently aligned appears to be unctioning well delivering judicial services as required, and no improvement in either category has been ssured or demonstrated by those favoring the realignment of the Tenth Judicial District.

2. Chapter 432 of the Laws of 1977 adopted many changes in the judicial system of the State of Minnesota, including the establishment of the Office Court Administrator. It is the opinion of the Board that before any change in the alignment of the Tenth Judicial District is made because of overlapping County Court Districts or scheduling problems, or both, that there should be a full utilization of the offices of the several Court administrators before solution is attempted by realignment.

3. That the Sherburne County Auditor is directed to provide copies of this Resolution to all persons and agencies considering or involved in the proposed realignment of the Tenth Judicial District.

Dated: February 21, 1978

SHERBURNE COUNTY BOARD

By /s/Everett Rathbun
Chairman of the County Board

ATTEST:

/s/Dale Palmer
SHERBURNE COUNTY AUDITOR

Commissioner Roger Marturano seconded the Motion.

WHEREUPON the Motion was unanimously carried.

"Exhibit 2"

THE SUPREME COURT OF MINNESOTA

LAURENCE C. HARMON
STATE COURT ADMINISTRATOR
WILLIAM MITCHELL LAW CENTER
SUITE 300, 40 NORTH MILTON STREET
SAINT PAUL, MINNESOTA 55104

September 20, 1978

Mr. F. Dale Kasparek, Jr.
District Administrator
Tenth Judicial District
Courthouse
Anoka, Minnesota 55303

Dear Dale:

Pursuant to our telephone conversation this afternoon, I am sharing with you the contents of a memorandum which I previously prepared at the request of Chief Justice Sheran. Its relevant portions are as follows:

The primary objective of our redistricting effort is to expand county court districts. We have adopted as a general guideline the following test: a county court district should be comprised of a minimum of three county court judges, each of whom should serve a population of 20,000 to 25,000.

We anticipate that expanding the size of county court districts will have the following beneficial effects:

1. Additional judges will be available in the event that a particular judge is unavailable due to illness, vacation, affidavits of prejudice and the like;

2. Larger county court districts (particularly those which will be virtually coterminous with district court judicial districts) will prepare local judges, administrators, county boards and the public both practically and psychologically for the possibility of a unified court system. We may thus begin to realize the benefits of unification as a consequence of redistricting. Among the anticipated advantages are the following:

a. Judges will begin to cooperate with one another across county lines, recognizing their obligation to a larger district than they have had heretofore. Since this larger judicial district will also constitute an election district, county judges will be stimulated to become involved in judicial business outside of the counties in which they reside;

Mr. F. Dale Kasparek, Jr. September 20, 1978

b. Judges will be encouraged to specialize in certain areas of the law. Their assignments may be made with more flexibility to recognize their expertise in specialized fields;

c. Larger county court districts will expand the number of attorneys in a geographical area who will be available for gubernatorial appointment.

I understand that there is an effort underway to delay the effective date of redistricting (until 1982) while allowing for administrative redistricting in the interim. I believe that this approach is acceptable for the following reasons:

1. Chief judges currently have the authority to assign judges anywhere within the district. Consequently, much of the rationale for redistricting (i.e., flexible assignments, specialization, broadened area of responsibility) is being realized in many of the districts;

2. There should be some time for the judges to adjust to being assigned to cases outside their home counties. If in fact assignments will be made in conformity with a plan of "administrative" redistricting in larger judicial districts, a delay until 1982 for expanded election districts should be tolerated.

Very truly yours,

Laurence C. Harmon

LCH/jk

"Exhibit 3"

SHERBURNE COUNTY BOARD OF COMMISSIONERS

RESOLUTION

ADOPTED AT ITS

NOVEMBER 6, 1979, REGULAR MEETING

WHEREAS, this Board has been informed that the Special Redistricting Subcommittee of the Judicial Planning Committee following a series of three meetings called for the purpose of considering the so-called problem in the Eastern part of the Seventh Judicial District has adopted by a vote of seven to three a plan to maintain the present judicial district lines leaving Sherburne County a part of the Tenth Judicial District but recommending the creation of a new county court district consisting of Wright County and Sherburne County, and

WHEREAS, this Board has been on record since February 21, 1978, as opposing any realignment of the Tenth Judicial District that would exclude Sherburne County, and

WHEREAS, this Board has been informed that notwithstanding the fact it has considered the present county court district and judicial district as efficient means for the delivery of judicial service and has been aware of no complaints by the bar or by the citizens of the county, to the contrary information has been given to the Special Redistricting Subcommittee that the present alignment is an unworkable one and must be changed.

NOW, THEREFORE, BE IT RESOLVED that the Sherburne County Board of Commissioners supports the action of the said Special Redistricting Subcommittee in recommending that Sherburne County remain a part of the Tenth Judicial District and a new county court district be formed consisting of Sherburne County and Wright County, which recommendation has been referred to as Option One.

BE IT FURTHER RESOLVED that this Board does oppose any alternative action to that described in Option One and any realignment of the Tenth Judicial District that would omit Sherburne County from the Tenth Judicial District.

BE IT FINALLY RESOLVED that this Board authorizes and designates its County Attorney or Assistant County Attorney to appear before any appropriate committee considering such realignment of county court or judicial districts and if necessary before the Supreme Court and the Council of the Chief Judges of the District Courts to support the position of the County Board as set forth in this Resolution and to oppose any alternative to said Option One except that of maintaining all present alignments as they now exist.

/s/ Lyle Smith
CHAIRMAN OF COUNTY BOARD, Lyle Smith

The undersigned being the duly elected Sherburne County Auditor and Secretary of the County Board of Commissioners does hereby certify that the foregoing Resolution is a true and correct copy of the Resolution adopted by the Sherburne County Board of Commissioners at its November 6, 1979, regular meeting.

SHERBURNE COUNTY AUDITOR, Dale Palmer

Exhibit 4

RESOLUTION

Councilman Larry Toth introduced the following Resolution and moved its adoption.

WHEREAS, the City of Elk River as a part of the County of Sherburne has been a part of the Tenth Judicial District of the State of Minnesota for a period in excess of 20 years, and

WHEREAS, the city through its office of the City Attorney, peace officers, and other officers have developed a working relationship with the offices of the Clerks of Court in the counties of the Tenth Judicial District and with the office of the Tenth Judicial District Public Defenders, and

WHEREAS, the proximity of the City of Anoka to the City of Elk River in which the City of Anoka there has almost always been available the services of the District Judge when required, which has been considered by this City and its Office of City Attorney to be an important resource in the judicial process, and

WHEREAS, the City of Elk River is presently experiencing extensive peripheral growth in the adjacent areas of Anoka County and Wright County requiring increased coordination in concern for the new neighbors of this community which areas are also part of the Tenth Judicial District, and

WHEREAS, the City believes it has been well served by the Judges of the Tenth Judicial District, and

WHEREAS, the City feels that it has been well served by its present three County-Court system.

BE IT THEREFORE RESOLVED by the City Council of the City of Elk River:

1. That it express through this Resolution its belief that continued existence in the Tenth Judicial District will best serve the constituents of the City of Elk River and County of Sherburne.

2. That it express through this Resolution to the County Court Judges of the County Court that it believes that its continued existence of the ~~County Court District~~ will best serve its interest of its constituents and the citizens of Sherburne County.

3. That it oppose any change of the District alignment of either the County Court District or Tenth Judicial District.

4. That if realignment becomes inevitable for reasons that are not clear to this Council that the City of Elk River and County of Sherburne continue to be a part of the Tenth Judicial District.

5. That if realignment becomes inevitable that the persons or bodies in charge of such realignment carefully explore and study a realignment that would leave the City of Elk River in the County Court District similar to that of its immediate neighbors such as the Wright County Court.

Councilman Duitsman seconded the motion.

WHEREUPON, the motion was duly adopted.

Frank Madison

Mayor

A. C. Miedaner

City Administrator

MONTICELLO OFFICE
207 SOUTH WALNUT STREET
MONTICELLO, MINNESOTA 55362

OFFICE PHONE (612) 295-2107
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SMITH, PRINGLE & HAYES
ATTORNEYS AT LAW

GREGORY V. SMITH, J.D.
GARY L. PRINGLE, J.D.
THOMAS D. HAYES, J.D.

ELK RIVER OFFICE
1ST NATIONAL BANK BUILDING
LOWER LEVEL
729 MAIN STREET
ELK RIVER, MINNESOTA 55330

OFFICE PHONE (612) 441-3990

December 9, 1980

51882

John C. McCarthy
Clerk of Supreme Court
Supreme Court
State Capitol
St. Paul, MN 55101

Dear Mr. McCarthy:

I am writing to you as President of the 18th District Judicial Bar Association.

Please know that our Association at the 1980 annual meeting, by unanimous vote of the membership, went on record as opposing the redistricting plan as proposed and recommended by the Judicial Planning Commission.

I would appreciate it if you would pass this letter on to the Justices.

Thank you for your cooperation in this matter.

Yours truly,

Gregory V. Smith

GVS/sdh

Benton County Attorney

COURTHOUSE
531 DEWEY STREET
FOLEY, MINNESOTA 56329

RICHARD T. JESSEN
COUNTY ATTORNEY

JUSTIN McBRIDE
ASSISTANT COUNTY ATTORNEY

DANIEL M. HUMENIK
SPECIAL ASSISTANT COUNTY ATTORNEY

PHONE 968-7141

December 12, 1980

The Honorable Robert J. Sheran, Chief Justice
Minnesota Supreme Court
State Capitol
St. Paul, MN 55155

RE: New Eleventh Judicial District

51882

Dear Chief Justice Sheran:

It is my intention to attend the December 19, 1980 hearing on the proposal to create a New Eleventh Judicial District. However, if I am not able to attend, I wish to be on record as being in favor of the proposal.

The smaller geographic area should enable attorneys to reach judges more easily and quickly than before, and that should be a benefit to all of the citizens in the district.

Sincerely,

Richard T. Jessen

RTJ/ve

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396-3722

December 17, 1980

Hon. Robert J. Sheran
Chief Justice
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55101

In re: Proposed Eleventh Judicial District

Dear Justice Sheran:

I am writing this letter in opposition to the creation of the proposed Eleventh Judicial District. I previously expressed my opposition in detail and, I believe,that letter is on file with the Court.

There are several reasons for my opinion which I would like to share with you.

The Tenth Judicial District at this time is a viable judicial district with an effective administration and work load. I believe that recent statistics will show that our Judges may have more work than some others, nevertheless they have managed to avoid long trial delays. The lawyers in our office primarily engage in the courts in the northern area of the district, but do appear in all courts of the district and are pleased with the way their cases have been managed.

It appears to me that there are long traditions associated with the present district. People have located in areas relying on the continuation of the status quo. While this, in and of itself is not an argument for no change, there should be a good and very cogent reason to change. Change, for changes sake, is obviously wasteful and will undoubtedly create problems for lawyers and judges.

The vast majority of the judges and lawyers in the district are heartily opposed to this proposed change. We had a

18th Judicial Bar District meeting in Anoka last spring and the vote was almost unanimous against this proposition. I might point out that most of the lawyers in the area are now considerably younger than I am and, therefore, are not voting against change because of tradition or habit, but because they believe it will lead to less efficiency in the administration of their court system.

It is proposed that Kanabec County be included in our area as a part of our County Court District (along with Isanti, Pine, and Chisago). The lawyers of our office have no objection to this. However, I must point out that the three Judges in our district are absolutely swamped with work and if Kanabec County is added we will require an additional Judge.

In summary, it appears that this proposed change will be disruptive to both Judges and lawyers without any great compensating improvement in the administration of our court systems. It is my opinion that the proposed change should not be adopted with the possible exception of placing Kanabec County in with Isanti, Pine, and Chisago Counties provided an additional Judge is included.

Respectfully yours,

PARKER, SATROM, ANDERSON & O'NEIL, Ltd.

Robert S. Parker

RSP;vpd

John McCarthy

Paul D. Aasness
District 11A
Grant-Otter Tail-
Traverse Counties
Committees:
Agriculture
Governmental Operations
Health and Welfare

Minnesota House of Representatives

Rodney N. Searle, Speaker

December 16, 1980

Mr. Lawrence C. Harmon
State Court Administrator
40 North Milton - Room 300
St. Paul, Minnesota 55104

Dear Sir,

I am enclosing a letter addressed to the members of the Minnesota Supreme Court. Would you please place a copy into the hands of the members at the time of the hearing concerning creation of an eleventh judicial district. Thank you.

Sincerely,

Paul Aasness

Paul D. Aasness
State Representative

PDA:rs

Enclosure: 1

Reply to: ☐ State Office Building, St. Paul, Minnesota 55155 (612) 296-7974
☐ Wendell, Minnesota 56590 (218) 369-2660

Paul D. Aasness
District 11A
Grant-Otter Tail-
Traverse Counties
Committees:
Agriculture
Governmental Operations
Health and Welfare

Minnesota House of Representatives

Rodney N. Searle, Speaker

December 16, 1980

Members of the Minnesota Supreme Court:

As a State Representative serving in Otter Tail County, I want to inform you of my feelings regarding the proposal for the creation of the new eleventh judicial district. In my mind I fail to see the need for the addition of a new judicial district. In my research on this matter, the administration of justice appears to be going well as it is currently being handled.

I would like to lend my support with the majority of the lawyers of the Bar Association in being opposed to the creation of the new eleventh district.

Thank you for your attention to this matter.

Sincerely,

Paul Aasness

PAUL D. AASNESS
State Representative

PDA:rs

12-24 -- Copy to each Justice
W.T.

Reply to: ☐ State Office Building, St. Paul, Minnesota 55155 (612) 296-7974
☐ Wendell, Minnesota 56590 (218) 369-2660