

JOURNAL OF THE HOUSE

Fiftieth Legislative Assembly

SECOND DAY

Bismarck, January 7, 1987

The House convened at 1:30 p.m., with Speaker Kloubec presiding.

The prayer was offered by Jay Davis, First Nazarene Church, Bismarck, North Dakota.

ROLL CALL

The roll was called and all Representatives were present, except Representatives Martinson and C. Williams.

A quorum was declared by the Speaker.

CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your Committee on Correction and Revision of the Journal has carefully examined the Journal of the First day and recommends that the same be corrected as follows and, when so corrected, recommends that the same be approved:

Beginning on page 101, under First Reading of House Bills, insert the following bills, with titles, in numerical order:

HB 1001	is referred to the	Committee on Appropriations
HB 1002	is referred to the	Committee on Appropriations
HB 1005	is referred to the	Committee on Appropriations
HB 1006	is referred to the	Committee on Appropriations
HB 1014	is referred to the	Committee on Appropriations
HB 1017	is referred to the	Committee on Appropriations
HB 1019	is referred to the	Committee on Appropriations
HB 1021	is referred to the	Committee on Appropriations
HB 1023	is referred to the	Committee on Appropriations
HB 1024	is referred to the	Committee on Appropriations
HB 1026	is referred to the	Committee on Appropriations
HB 1028	is referred to the	Committee on Appropriations

REP. THOMPSON, Chairman

REP. LAUGHLIN MOVED that the report be adopted, which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. SPEAKER: Your Committee on Industry, Business and Labor to which was referred HB 1106 has had the same under consideration and recommends by a vote of 16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. WHALEN, Chairman

HB 1106 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Industry, Business and Labor to which was referred HB 1126 has had the same under consideration and recommends by a vote of 16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. WHALEN, Chairman

HB 1126 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Education to which was referred HB 1143 has had the same under consideration and recommends by a vote of 15 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS.

REP. GATES, Chairman

HB 1143 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Industry, Business and Labor to which was referred HB 1144 has had the same under consideration and recommends by a vote of 16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. WHALEN, Chairman

HB 1144 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Industry, Business and Labor to which was referred HB 1154 has had the same under consideration and recommends by a vote of 16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. WHALEN, Chairman

HB 1154 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MOTION

REP. STRINDEN MOVED that the House stand at ease to receive the Senate for a Joint Session, which motion prevailed.

JOINT SESSION

The Joint Session was called to order at 2:00 p.m., with Speaker Kloubec presiding.

MOTIONS

REP. GOETZ MOVED that a committee of two be appointed to escort Lt. Governor Meiers to the rostrum, which motion prevailed. Speaker Kloubec appointed Reps. Cleveland and Hill to such committee, and Lt. Governor Meiers was escorted to the rostrum.

REP. MERTENS MOVED that a committee of two be appointed to escort the Honorable George A. Sinner, Governor, to the rostrum, which motion prevailed. The Chair appointed Sen. Nelson and Rep. Dalrymple to such committee, and the Honorable George A. Sinner, Governor, was escorted to the rostrum.

LT. GOVERNOR MEIERS INTRODUCED Governor Sinner to the Assembly.

SEN. BAKEWELL MOVED that a committee of two be appointed to escort Chief Justice Erickstad to the rostrum, which motion prevailed. The Chair appointed Sen. Stromme and Rep. G. Berg to such committee and Chief Justice Erickstad was escorted to the rostrum.

SEN. J. DOTZENROD MOVED that a committee of four be appointed to escort the Associate Justices of the North Dakota Supreme Court and the other elected state officials to the rostrum, which motion prevailed. The Chair appointed Sens. Axtman and Freborg and Reps. Kretschmar and Ulmer to such committee and the Associate Justices of the North Dakota Supreme Court and the other elected state officials were escorted to the rostrum.

REP. GOETZ MOVED that a committee of four be appointed to escort the district judges and surrogate judges to their seating at the front of the Chamber, which motion prevailed. The Chair appointed Sens. David and Keller and Reps. Wentz and A. Williams to such committee, and the district judges and surrogate judges were escorted to their seats at the front of the Chamber.

LT. GOVERNOR MEIERS INTRODUCED county judges, members of the Board of Governors and the Executive Director of the State Bar Association, other members of the Judicial Council, and Chairmen of the key committees of the Supreme Court.

LT. GOVERNOR MEIERS INTRODUCED Chief Justice Erickstad to the Assembly.

THE STATE OF THE JUDICIARY
Message By
The Honorable Ralph J. Erickstad

INTRODUCTION

I thank you Lieutenant Governor Ruth Meiers, Speaker Richard W. Kloubec, Governor George Sinner, leaders of the Republican and Democrat caucuses of the House and Senate, Committee Chairpersons, other members and staff of the 50th Legislative Assembly, members of the Board of Governors of the State Bar Association, members of the State Bar Board, members of the North Dakota Judicial Conference who have been invited to this joint session, chairpersons of Supreme Court committees, state officials and other distinguished guests, citizens of North Dakota, ladies and gentlemen, friends all.

This is the eighth time in almost a century of our history as a state and the 50 sessions of the Legislative Assembly that the Chief Justice of our state has been invited to speak to a joint session of the Legislature on the State of the Judiciary. We are pleased and thankful that this means of recognizing the judicial branch of our government has now become a tradition that we hope will never be broken. We appreciate the opportunity to bring to your attention a report of our progress in improving court services, the problems we face, the needs we have, and the solutions we suggest.

On behalf of all of us in the Judiciary, we invite you all to continue the tradition of joining us for refreshments in the reception area of the Supreme Court during the recess immediately following my remarks. I hope you will be our guests and take this opportunity to visit informally. We will be happy to give you a tour of the Supreme Court facilities in the east wing, at your request.

We have provided each of you with copies of my message today. As in the past, I do not intend to read the full message or to orally cover all of the items in their entirety. You may want to follow the printed message as I speak or refer to it later for further information.

AN OVERVIEW OF THE NORTH DAKOTA JUDICIAL SYSTEM

Since my last appearance before you in January 1985, the North Dakota Judicial System has strengthened its service delivery system, and taken steps to address several important problems. We have made this progress with your support and because of the efforts and contributions of judges, other court employees, and citizens who serve on our advisory committees, as many of you do.

For the Judiciary this session, the question is whether or not we are prepared psychologically or mentally, as a people, to make the sacrifices necessary to provide the improvements required to ensure equal justice in our courts. With the necessary tools, through appropriate legislation and funding, we will all share in the harvest of justice.

We are not unmindful of the serious economic conditions faced by many of the people of our state and the consequential negative effect on the revenue to the state general fund. But the hard facts are that the judicial system is placed under more stress and required to perform more difficult and emotionally draining tasks in hard times than in good times. In these times we cannot let up in our efforts to maintain the quality and availability of judicial services, lest the system crack under the strain and we all suffer the dire consequences of a judiciary unable to carry out its very crucial responsibilities.

I will review with you some of the current challenges we face and the direction we recommend be taken for their resolution.

Significant challenges exist at the level of the Supreme Court at one end and at the level of the municipal courts at the other. Together we are getting the job done, but the strains at these two ends of our judicial service spectrum are particularly evident.

SUPREME COURT

As I have reported to you in 1981, 1983, and 1985, I report to you today, the Supreme Court caseload has reached a volume that gives us concern. There were 309 new cases filed in our Supreme Court in 1981, 370 new cases in 1984, and 338 new cases in 1985. In 1986 there were 378 new cases filed. This is the highest number of cases ever to be filed in our Supreme Court. I don't have the breakdown of cases for 1986, but the breakdown of cases in 1985 translates into an average of 44 written majority opinions per justice, not counting the special concurring and dissenting opinions. The other cases, which were disposed of by order without a written opinion, still involved substantial time for study of the pleadings, the law, and discussion and disposition on the part of each of the justices. The experts say that whenever an appellate court justice is required to write more than 35 full-fledged opinions per year the quality of justice must suffer.

As a state, we must recognize this problem and address it in a deliberate and responsible manner before there is a crisis which will harm litigants and adversely affect the credibility of our courts. I will suggest a specific solution to this problem later.

TRIAL COURTS

The trial courts of our state, the district courts and the county courts, are working well. District court judges continue their excellent record of prompt and careful disposition of cases. The now well-established county courts are making substantial contributions to improve court services.

I think that there is developing within each judicial district a stronger working relationship between the district court judges and the county court judges under assignment by the presiding judges and with the support of administrative staff services.

I commend the presiding judges, their colleagues, and their support staff for their great efforts in disposing of the work with enthusiasm and care. Much of the satisfaction with court services in our state is directly attributable to this effort in promptly meeting the court needs of our citizens.

This does not mean that there are no cases within our judicial system that exceed the time standards of our docket currency standards, but it does mean that each case that exceeds the time standards has been reviewed by the presiding judge of the

judicial district and the time standards waived only when good cause has been shown. This is an area of endeavor we need to constantly monitor, and we do. If any of you have any complaints in this regard, please contact the presiding judge in your district, or our state court administrator, or talk to me so that appropriate remedial action can be taken.

I will return to this subject in a moment.

DISTRICT COURTS

The district courts continue to experience a gently rising plateau in total new case filings of 16,396 new filings in 1984 and 16,979 new filings in 1985.

The cold statistics which are outlined in the written text of my remarks do not begin to indicate the tremendous responsibilities that rest upon the shoulders of our district judges and their referee appointees. Because this is so, I ask those district court judges and surrogate judges who are present to please stand and be recognized at this time. Thank you.

COUNTY COURTS

The county court system which the 1981 session of the Legislature revised by increasing the jurisdiction of the court and requiring that all county judges be law trained and serve full time, has survived baptismal fire. It is accepted and is a success. Services have improved. Citizen satisfaction is increased. I thank you for your leadership, courage, and faith in establishing the new county court system. It has proved its worth in flexibility and service to the people of North Dakota. At this time I ask the county judges who are present today to please stand and accept our thanks for themselves and for their colleagues who could not be present.

The county courts have experienced a slight decrease (-6.1 percent) in total new cases. Although the cases have diminished in number as indicated in more detail in my written remarks, their complexity continues to increase.

MUNICIPAL COURTS

Through our state constitution we have a unified judicial system. Although municipal court services and county court services are funded by city and county government, the quality of their services is the responsibility of the unified judicial system. Different funding sources for different levels of court make the implementation of a unified court more challenging, but with the cooperation of the North Dakota League of Cities and the North Dakota Association of Counties, we have made substantial progress together in improving court services.

Municipal courts are an integral part of the North Dakota Judicial System. Municipal court caseloads are stable, with slight decreases in total traffic case dispositions. This may be due to a growing public awareness of the importance of compliance with traffic laws and may be partially due to the increased penalties for their violation as determined by the Legislature.

OVERVIEW OF TRIAL COURTS

To summarize this overview of the trial courts of the North Dakota Judicial System, the cases filed in North Dakota trial courts continue to be under control. Cooperation is significant and increasing between the district courts and the county courts. Greater attention is being focused on municipal court services, with the growing realization that municipal court services are an integral part of our judicial system.

SUPREME COURT WORKLOAD

In 1983, I called your attention to a widespread and growing concern about the caseload of our North Dakota Supreme Court. To address this caseload problem, the Judicial Planning Committee proposed a 1983 study resolution to seek "a study of the present and projected North Dakota Supreme Court caseload and of methods for the appropriate structure and administration of appellate court services in the interest of justice . . ." (S.L. 1983, ch. 815). Senate Concurrent Resolution No. 4005 was approved by the 1983 Legislature, but the Legislative Council declined to undertake the study, and instead suggested that one be undertaken by the judicial system.

At the request of the Supreme Court, the Court Services Administration Committee, chaired by William Strutz, Bismarck, initiated the study called for in that resolution by establishing a Future Appellate Court Services Study Subcommittee. The Subcommittee consisted of Representative William Kretschmar, Ashley, Chairman; Orlin Backes, then President of the State Bar Association of North Dakota, Minot; then Representative, now U.S. District Court Judge Pat Conmy, Bismarck; District Judge William Hodny, Mandan; Paul Kloster, Past President of the State Bar Association of North Dakota, Dickinson; and Justice Gerald W. Vandewalle of our Supreme Court, Bismarck.

The Subcommittee prepared a report in which it reviewed the caseload problems of our Supreme Court, analyzed all available solutions, and recommended as the best solution of the problems the establishment of an intermediate appellate court.

Because of the importance of this issue, and the widespread concern with the caseload of our State Supreme Court, the State Bar Association of North Dakota established a committee, chaired by Duane Breitling, Fargo, to review the work of the Kretschmar Subcommittee. That committee acknowledged the existence of the workload problem, but urged, in essence, that all other possible

solutions be attempted prior to the creation of an intermediate appellate court. The State Bar Association, by a slim margin, approved the Breitling Committee Report at its annual meeting last June in Winnipeg, Manitoba.

In November of last year just a few weeks ago the Judicial Conference of our state approved a resolution supporting the concept of an intermediate appellate court as the solution to our workload problem.

Over a period of years, our Supreme Court has improved the efficiency of its case processing.

With your support and assistance we have established a central legal research staff and a law clerkship program to assist in the opinion writing aspect of our work. Without these people we would be completely overwhelmed today. L. David Gunkel is the Director of our Central Legal Staff.

In order to expedite the decision-making process we have reduced the time of oral arguments and the number of pages of the written briefs that are filed with us. This we have done to gain more time for research, writing, and discussion.

We have adopted Rule 35.1 of the Rules of Appellate Procedure which permits us to summarily affirm cases under certain very limited circumstances when the Supreme Court determines after oral argument, unless waived, that no reversible error of law appears and that one of seven other circumstances exists. We have used that rule for almost a year now in those limited circumstances, but we find that the time required to decide whether or not the rule applies is very significant and, thus, that not much time is saved by using it.

We have also experimented with the use of rotating panels of three justices in motion proceedings and other matters, this we did before our two most recent appointees to our Court were judges, but we have found that, also, to be of little aid.

We have not tried prescreening of cases, preargument settlement procedures, nor have we urged expanding the size of our Court. Each of these changes would require additional staff services and the latter would be almost as expensive as an intermediate court without equivalent benefits.

Our sister state of Minnesota tried all of these things and abandoned them for the creation of an intermediate appellate court of twelve justices who sit in panels of three. We are asking for only one panel of three judges.

It is my personal conclusion, in light of all this and my twenty-four years of experience with our Supreme Court, that we have exhausted all reasonable ideas for significantly improving appellate court services, and that further such efforts will

produce only marginal improvement and may possibly have an adverse effect on the very quality of our decisions which all of these study efforts have been aimed to protect.

The members of our Supreme Court are acutely aware that justice requires our personal review and study of each case. The pressures mount to shift responsibility to able staff, but we must resist, with your assistance, this trend. We must preserve the interest of the public in accountability for justice. Increasing caseloads without the assistance of a publicly accountable court of appeals, as an intermediate appellate court, will slowly, but surely adversely affect the quality of justice.

Notwithstanding our many efforts and your great support, we have reached a point in the development of our system where we need to take a more structural step lest the quality of our decisions deteriorate.

Partly, I am certain, because of the Kretschmar Committee Report, the 1985 Legislature passed a study resolution which provided for a study of "the present and projected caseload of the North Dakota Supreme Court and the need for an intermediate court of appeals" The Legislative Council undertook that study through the Court Services Committee, chaired by Representative John Schneider, Fargo. The Schneider Committee originally considered a proposed bill that would have created a permanent court of appeals with a delayed effective date. It was amended to provide only for a temporary court of appeals not to exceed one year in duration upon certification of a certain caseload. This bill, now House Bill No. 1036, was approved by the Legislative Council.

I am hoping that upon consideration of that bill you will amend it further to incorporate a temporary court of appeals to be established upon certification of a certain caseload which could be filled by our court by temporary appointments of active district court judges, retired Supreme and district court judges, and lawyers. The bill should further be amended to provide for a permanent court of appeals by 1990 with judges having staggered eight-year terms with the first terms expiring January 1, 1993, January 1, 1995, and January 1, 1997. If the bill were passed as so amended in this session of the Legislature, the machinery of the permanent court would be ready for use by 1990. That would permit the 1989 Session of the Legislature to review conditions then existing to determine whether or not it was necessary to amend the bill or to further postpone its effective date. This is the delayed approach that was used when Chapter 12.1 of the North Dakota Century Code, creating the new substantive criminal code, was adopted in 1973 by the Legislature.

I urge you to act now to supply us with this means of keeping abreast of our caseload problem in the best way possible in light of our state's economy today.

This is a solution to our problems which has undergone exhaustive research and study, and whose time has come. The debate which it has engendered has been constructive. Some of you will recall that the adoption of House Bill No. 1060 back in 1981, providing for a new county court system, was preceded by vigorous debate. Its passage in 1981 has proved very beneficial. I predict that, if you establish a "phased in" court of appeals, such action will likewise be acclaimed in the future as a great step forward in providing judicial services in our state.

ADMINISTRATION OF THE JUDICIAL DISTRICTS Council of Presiding Judges of the Judicial Districts

The Council of Presiding Judges is made up of each of the presiding judges of our seven judicial districts. I have appointed, after consultation with our court, Judge A. C. Bakken as the Chief Presiding Judge upon the retirement of Chief Presiding Judge Douglas B. Heen, Devils Lake.

The Council of Presiding Judges continues its work as a forum for consultation. It functions as a clearing house for discussion of the many issues that arise in conjunction with the administration of the judicial districts within the judicial budget and especially aids in preparation of a budget for submission to the Supreme Court and to the Legislature. William Bohn, our Court Administrator, and his staff, and the district court administrators work closely with the Council.

Our court would be unable to carry out its constitutional duty of administering the judicial system without the great assistance and cooperation of the presiding judges, their colleagues and employees at the trial court level.

ADVISORY COMMITTEES

The North Dakota Judicial System relies heavily on its advisory committees to maintain the flow of new ideas and proposals for improving court services.

These committees are representative of all constituent parts of the population of North Dakota. Citizen members include legislators, business and labor leaders, and officials of local government, in addition to judges, lawyers, and court personnel. Each district judge, each county judge, and several municipal judges are invited to participate with the members of the Supreme Court and citizen members in at least one major judicial system advisory committee. With the recent election, we have some new county judges who have not as yet been appointed to these committees, however, they will be in the near future. We greatly rely on the recommendations of these committees in our supervision of all court services in our state.

Let me tell you briefly about the work of some of these advisory committees.

Judicial Planning Committee

The Judicial Planning Committee, chaired by Justice Beryl J. Levine, has prepared the "Judicial Master Program for the Biennium Ending June 30, 1989," which is presently under review within the North Dakota Judicial System. This document sets forth the goals, objectives, and tasks around which we will focus our efforts in improving court services during the next biennium. Funds for pursuing these goals are reflected in the budget proposal before this Legislature.

The Judicial Master Program is the major planning effort of the North Dakota Judicial System to identify problem areas and to address improvements in court services during each biennium. This statewide planning process continues to be built upon the foundation of similar planning processes within each judicial district.

In 1986, the Judicial Planning Committee took a further step in strengthening this planning process. That step was the commissioning of a public opinion poll. Please see my printed remarks for the interesting discoveries made through this poll.

As you will note from my written remarks, the Judicial Planning Committee is moving forward firmly on our behalf to recognize and clarify challenges and to recommend steps to be taken to meet them.

Joint Procedure Committee

The Joint Procedure Committee, chaired by Justice H. F. "Sparky" Gierke, makes recommendations to the Supreme Court for the improvement of the court procedural rules and Rules of Evidence. In 1985, the Committee submitted a request to the North Dakota Supreme Court for the promulgation and adoption of amendments to the Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Appellate Procedure, and the Rules of Court. The amendments to the Rules became effective March 1, 1986.

During 1985 and 1986, the Joint Procedure Committee has studied various issues and drafted numerous proposed amendments to the Rules of Procedure which will be submitted to the Supreme Court this year.

Because the work of this Committee is of such a technically legal nature, I will not attempt to describe its activities in detail, but its work is crucial to the proper administration of justice in our courts, at all levels.

Attorney Standards Committee

The Attorney Standards Committee, until recently chaired by Malcolm Brown, Mandan, and now chaired by Vern C. Neff, Williston, has been active this biennium reviewing major subjects

relating to the supervision of attorneys and the practice of law in our state.

The Committee has completed a major study of the American Bar Association Model Rules of Professional Conduct through a subcommittee chaired by Christine Hogan, Bismarck. This has been a monumental study which culminated only last month in a hearing before our court on proposed new rules. We hope to act on the rules soon.

Through a subcommittee, chaired by Mark Stenehjem, Williston, the Committee has developed a comprehensive revision of the lawyer disciplinary process. This proposal is also pending before our court and should, when adopted, greatly improve our lawyer disciplinary processes.

As you will discern from this review and additional activities outlined in my written address, the Attorney Standards Committee has been working diligently to strengthen the services of lawyers to the citizens of our state. We are very pleased with, and appreciative of, its work.

Judiciary Standards Committee

The Judiciary Standards Committee, chaired by Jane Voglewede, Fargo, reviews subjects relating to the supervision of the judges in our state. The Committee recommended, and the Supreme Court has approved, the establishment of a Pattern Jury Instruction Commission to assure continuity in maintaining current pattern jury instructions for civil and criminal cases in North Dakota.

Among other things, the Committee continues its study of possible amendments to the Rules of Judicial Conduct to clarify standards of conduct in judicial elections in our state. This is a very important area of study both as to the interests of the candidates and as to the interests of the public. The value of the work of this committee cannot be estimated.

Court Services Administration Committee

The Court Services Administration Committee, chaired by William Strutz, Bismarck, continues its wide-ranging study of subjects relating to court services in North Dakota.

It is through a subcommittee of the Court Services Administration Committee, chaired by Representative William Kretschmar, as I earlier indicated, that the major study of Future Appellate Court Services has been conducted which has resulted in House Bill No. 1036 before you for your review.

As you will note from my written remarks, this committee and its subcommittees have been hard at work on significant issues and have produced practical proposals for legislative consideration. It is the committee which created our docket currency standards

which help us monitor our cases in the county and district courts. Without the docket currency monthly reports, we would have no way of knowing how our cases are progressing through our system.

CONSTITUTIONAL CELEBRATION COMMITTEE

Our court has also created a Constitutional Celebration Committee, chaired by Justice Herbert L. Meschke, to assist and coordinate the recognition of the Bicentennial of the United States Constitution and the Centennial of the North Dakota Constitution.

This will be the year, 1987, in which we begin the commemoration of the Bicentennial of the United States Constitution. In 1787 the United States Constitution was signed. In 1788 it was substantially ratified with the promise of the development of a Bill of Rights, which came to reality in 1791. It is this past period from 1787 to 1791 which we will reflect upon during the period from 1987 to 1991 to remind ourselves of the structure of our government, the idea of the inalienable rights of citizens, and the role of a written constitution as one of our greatest contributions to world civilization and to all of history. To this great celebration we can properly dedicate ourselves during these next few years.

This is a commemoration for everyone. The celebration of the Bicentennial of the United States Constitution fits nicely with the celebration of the North Dakota Constitution which will become a component part of our statehood Centennial celebration in 1989.

JUDICIAL CONFERENCE

In accordance with legislation enacted in 1985 resulting from a study by a special committee of the Judicial Council, the North Dakota Judicial Council which was created by statute in 1927, ceased to exist on July 1, 1985. In its place a Judicial Conference was created.

Justice Gerald W. VandeWalle was elected the first chairman of the Judicial Conference in June 1985. Please refer to my written remarks for the function, current activities and committees of this new conference. We anticipate that it will be a great force for good in our system.

CONCLUSION

I have reviewed with you the issues of concern to the judicial branch of our state government. I hope you will conclude, as I have, that our court services are constantly improving. Most of the ideas for improvement have come from our advisory committees.

The work of several more of these important committees, boards, and commissions is summarized in my written remarks today and incidentally, a number of those people are present here including the dean of the law school. Would they stand also wherever they are seated and be recognized at this time.

That was Dean Davis. We appreciate you standing for us.

We can do, and have done, much to improve our system of justice through our rulemaking authority, but we cannot legislate or appropriate. For that we depend upon you.

Dr. Reinhold Niebuhr is alleged to have said that "Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary." In referring to man's capacity and inclination he was in essence speaking of humanity's capacity and inclination. He could have added that democracy is impossible without a strong judicial system.

Your careful review and support of our proposals will assure, as I earlier promised, that we will share in the harvest of justice.

When we recess, I hope I will be able to visit with each of you personally over a cup of coffee. If you have suggestions as to how we might improve court services in our state please do not hesitate to let me know. I thank you very much.

MOTIONS

REP. KRETSCHMAR MOVED that the address of Chief Justice Erickstad be printed in the Journal, which motion prevailed.

REP. STRINDEN MOVED that a committee of four be appointed to escort the Honorable George A. Sinner, Governor, Chief Justice Erickstad, the Associate Justices of the North Dakota Supreme Court, elected state officials, district judges, and surrogate judges from the Chamber, which motion prevailed. The Chair appointed Sens. Axtman and Freborg and Reps. Kretschmar and Ulmer to such committee and the Honorable George A. Sinner, Governor, Chief Justice Erickstad, the Associate Justices of the North Dakota Supreme Court, elected state officials, district judges, and surrogate judges were escorted from the Chamber.

REP. STRINDEN MOVED that the Joint Session be dissolved, which motion prevailed.

Lt. Governor Meiers declared that the Joint Session was dissolved.

MOTION

REP. STRINDEN MOVED that the House stand at recess for five minutes.

THE HOUSE RECONVENED pursuant to recess taken.

ANNOUNCEMENTS

SPEAKER KLOUBEC ANNOUNCED the following appointments of members to the House Appropriations Subcommittees:

Government Operations Section

Chairman: Rep. H. Kingsbury
Vice Chairman: Rep. R. Gunsch

J. Peterson	J. Graba
G. Gerntholz	S. Hoffner
B. Smette	B. Laughlin

Human Resources Section

Chairman: Rep. T. Kuchera
Vice Chairman: Rep. F. Wald

J. Peterson	T. Kelly
V. Rice	O. Opedahl
B. Winkelman	S. Stofferahn

Education and Environment Section

Chairman: Rep. R. Hausauer
Vice Chairman: Rep. K. Thompson

J. Peterson	G. Berg
D. Kent	R. Solberg
D. Payne	J. Hill
	R. Nowatzki

SPEAKER KLOUBEC ANNOUNCED that HB 1192 was inadvertently referred to the **Committee on Industry, Business and Labor** and HB 1192 will be rereferred to the **Committee on Finance and Taxation**.

REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your procedural Committee on Rules, appointed to recommend legislative rules, has had the same under consideration and recommends that the House and Joint Rules of the Forty-ninth Legislative Assembly as adopted on Thursday, December 6, 1984, and amended on Tuesday, January 8, 1985, with the following amendments, be adopted as the permanent rules of the House for the Fiftieth Legislative Assembly, and that the reading of this report be dispensed with:

SECTION 1. AMENDMENT. Subsection 3 of House Rule 204 is hereby amended to read as follows:

3. The Committee on Correction and Revision and Correction of the Journal shall before the House goes into session again, carefully examine and review the journal of the previous legislative day. Any errors or omissions shall be noted by the committee and reported to the House for action.

SECTION 2. AMENDMENT. House Rule 206 is hereby amended to read as follows:

206. OFFICERS AND EMPLOYEE POSITIONS OF THE HOUSE OF REPRESENTATIVES

The following offices and employee positions shall be established and the number, title, and manner of selection for each position shall be as hereinafter indicated or stated:

Title of Position	Number of Positions
Group A	
Chief Clerk	1
Desk Reporter	1
Sergeant-at-Arms	1

Persons holding Group A positions shall be elected by a majority of the members-elect and the vote shall be recorded in the journal.

Group B	
Assistant Chief Clerk	1
Bill Clerk	1
Chief Stenographer and Payroll Clerk	1
Chief Committee Clerk	1
Appropriations Committee Clerk	1
Assistant Appropriations Committee Clerk Clerks	2 3
Committee Clerks	10
Assistant Committee Clerks Clerk	1
Chief Page and Bill Book Clerk	1
Desk Pages	3

Persons holding Group B positions shall be appointed by the party having a majority of the members-elect acting by and through the Committee on Employment.

Group C	
Secretary to the Speaker	1
Secretary to Majority Leader	2 1
<u>Assistant Secretary to Majority Leader</u>	<u>1</u>
Secretary to Minority Leader	2 1
<u>Assistant Secretary to Minority Leader</u>	<u>1</u>

The Speaker and the Majority and Minority Leaders shall appoint their respective secretaries to such position, acting by and through the Committee on Employment.

Other employees shall be appointed as deemed necessary by the Committee on Employment and shall be allocated to the majority and minority parties in proportion to each party's

percentage of the total number of the members-elect and each party shall appoint the persons to the positions allocated to them, acting by and through the Committee on Employment except, however, that in allocating the positions of stenographers and typists the minority party shall be allocated not less than one each of these positions. The majority party shall have the first right to select those positions of this group until their allocation is filled.

The powers, duties, and qualifications for each officer or employee shall be as provided by law, these rules, and the Legislative Handbook for North Dakota Legislators and Employees.

SECTION 3. AMENDMENT. House Rule 315 is hereby amended to read as follows:

315. VOTES REQUIRED FOR CERTAIN QUESTIONS

1. The following questions require a majority vote of the members of the House present and voting:
 - a. Adoption of amendments, as provided in House Rule 601.
 - b. Reconsideration of the adoption of an amendment, as provided by House Rule 341.
 - c. Order to a chairman to report a measure back from committee, as provided in House Rule 508.
 - d. Action, other than referrals or rereferrals to Appropriations Committee on certain measures, as authorized in House Rule 326.
 - e. To have Speaker refuse to sign any bill which the Senate refuses to return, as provided in House Rule 343.
 - f. Adoption of propositions of a divided question, as provided in House Rule 316.
 - g. Any question for which another vote is not required by the Constitution or another rule.
2. The following questions require a majority vote of the members-elect of the House:
 - a. Passage of bills, as provided in Section 39 13, Article IV, of the Constitution and House Rule 333.
 - b. Ratification of amendments to the Constitution of the United States, as provided in House Rule 333.

- c. Passage of proposed amendments to the Constitution of North Dakota, as provided in Section 45 16, Article IV, of the Constitution.
 - d. To constitute a quorum, as provided in House Rule 103.
 - e. Suspension of further proceedings under a call of the House, as provided in House Rule 303.
 - f. Election of certain House employees, as provided in House Rule 206.
 - g. Reconsideration of questions other than adoption of amendments if before end of next legislative day, as provided in House Rule 341.
3. The following questions require a two-thirds vote of the members of the House present and voting which two-thirds shall in no event constitute fewer than a majority of the members-elect of the House:
- a. ~~Emergency clauses, as provided in Section 41, Article IV, of the Constitution.~~
 - b. Introduction of bills after deadline, as provided in House Rule 402.
 - e- b. Previous question.
 - d- c. Return of measures to other house after action taken, as provided in Joint Rule 204.
4. The following questions require a two-thirds vote of the members-elect of the House:
- a. Initiated and referred measures amended or repealed within seven years after enactment or approval, as provided in Section 8, Article III, of the Constitution and House Rule 333.
 - b. Emergency clauses, as provided in Section 13, Article IV, of the Constitution.
 - c. Reconsideration after clincher motion, as provided in House Rule 342.
 - e- d. Reconsideration after next legislative day or after previous motion to reconsider, as provided in House Rule 341.
 - d- e. Second reading same day as report, as provided in House Rule 332.

- ~~e- f.~~ Suspension of requirement that copies of amendments be distributed before acted on, as provided in House Rule 601.
 - ~~f- g.~~ Suspension of rules, as provided in House Rule 321.
 - ~~g- h.~~ Vetoed measures, reconsideration, as provided in Section 9, Article ~~IV~~ V, of the Constitution.
5. The following questions require the unanimous consent of the members of the House:
- a. Suspension of the rules and passage of a bill neither printed nor heard by a committee, as provided in House Rule 321.
 - b. Reconsideration or suspension of a standing rule or order requiring unanimous consent, as provided in House Rule 321.
 - c. Amendment of measures on second reading except to amend the title, as provided in House Rule 328.

SECTION 4. AMENDMENT. House Rule 317 is hereby amended to read as follows:

317. AYE OR NAY VOTE

Except as required by the Constitution or these rules, the ayes and nays shall not be ordered unless ~~demanded by any member if supported by eleven other requested by one-sixth of those members present.~~ No person shall remain by the Clerk's desk when ayes and nays are being called. When the ayes and nays are ordered pursuant to this rule, the results will be printed in the journal in their entirety.

SECTION 5. AMENDMENT. House Rule 318 is hereby amended to read as follows:

318. VOTE BY MEMBERS

Every member who is present, before the vote is ~~declared~~ announced from the chair, must vote for or against the question before the House, unless the House excuses ~~him, provided, however, that the member.~~ him. However, any member who has a personal or private interest in any measure or bill shall disclose the fact to the House and shall not vote thereon without the consent of the House ~~pursuant to Section 21, Article IV, of the Constitution.~~ A "personal or private interest" is an interest that affects the member directly, individually, uniquely, and substantially.

SECTION 6. AMENDMENT. House Rule 327 is hereby amended to read as follows:

327. AMENDING BILLS

No bill ~~shall~~ may be ~~revised or~~ amended, ~~nor the provisions thereof extended,~~ or incorporated in any other bill, by reference to its title only, except in the case of definitions and procedural provisions, but the portion ~~revised,~~ amended, extended, or incorporated shall be set out at length and reenacted. No bill ~~shall~~ may be amended during its pendency in the House so as to change its original purpose in a manner which changes its general subject matter.

SECTION 7. AMENDMENT. House Rule 330 is hereby amended to read as follows:

330. ENGROSSMENT

All House bills amended in committee shall be properly engrossed before their second reading and final passage. ~~After the thirty-second legislative day, all~~ All House bills shall be deemed properly engrossed upon adoption of amendments. Any Senate bill amended in the House may, prior to second reading, be engrossed on motion of the House or on request of a leader. ~~After the fifty-fifth legislative day, all measures shall be deemed properly engrossed upon adoption of amendments. The Committee on Engrossment shall examine all bills after they are engrossed and report the same to the House correctly engrossed, which report must be approved before their second reading. The committee may report at any time.~~

SECTION 8. AMENDMENT. House Rule 332.1 is hereby amended to read as follows:

332.1. DISPOSITION OF MEASURES AFTER FIFTY-FIFTH LEGISLATIVE DAY

After the fifty-fifth legislative day, all bills and resolutions ~~received from the Senate for concurrence which have previously passed the House under consideration~~ shall immediately be placed on the calendar for second reading and final passage.

SECTION 9. AMENDMENT. Subsection 3 of House Rule 341 is hereby amended to read as follows:

3. In case of a bill, resolution, or amendment to the Constitution, the motion to reconsider, if made after the end of the next legislative day, shall require a two-thirds vote of the members-elect. After a motion to reconsider a question, any subsequent motion to reconsider the question requires a two-thirds vote of the members-elect. For purposes of this rule, a clincher motion that fails is not a motion to reconsider.

SECTION 10. AMENDMENT. Subsection 3 of House Rule 402 is hereby amended to read as follows:

3. Resolutions which propose amendments to the United States Constitution and resolutions directing the Legislative Council to carry out a study, shall not be introduced after the ~~thirty-third~~ thirty-fourth legislative day, and shall be reported back from the standing committee, if referred, no later than the forty-fourth legislative day in the case of resolutions proposing constitutional amendments, and no later than the thirty-seventh legislative day in the case of resolutions directing a Legislative Council study.

SECTION 11. AMENDMENT. House Rule 501 is hereby amended to read as follows:

501. STANDING COMMITTEES

Standing committees concerned with matters in the fields as indicated, shall be appointed as follows:

1. Appropriations: (23 members)

All bills calling for appropriations in excess of five thousand dollars. Each Except for the committee chairman, each member of the committee shall be appointed to one of the following sections subcommittees of the committee:

- a. Education and ~~Natural Resources~~ Environment.
- b. Human Resources.
- c. ~~General~~ Government Operations.

Group A-1

2. Education: (18 members)

Public Schools; Libraries; and Institutions of Higher Learning.

3. Finance and Taxation: (17 members)

Public Debt; Taxes and Tax Laws.

4. Judiciary: (~~14~~ 15 members)

Elections and Election Privileges; Judiciary.

5. Industry, Business and Labor: (16 members)

Banks and Banking; Corporations; Insurance; Matters pertaining to Private Business and Industry;

Workmen's Compensation; Unemployment Compensation; Labor Laws and kindred subjects.

6. State and Federal Government: (~~15~~ 14 members)

State and Federal Affairs; Director of Institutions and Industrial Commission and institutions under their supervision; State Historical Society and State Parks; Immigration and Statistics.

Group A-2

7. Agriculture: (~~17~~ 16 members)

Agriculture; Livestock; Drainage and Irrigation; Warehouse and Grain Grading.

8. Natural Resources: (17 members)

Game and Fish; Public Lands; Mines and Mining; Gas and Oil; Forestry.

9. Political Subdivisions: (15 members)

Cities; Counties; Townships; Park Districts; Apportionment.

10. ~~Seeial~~ Human Services and Veterans Affairs: (16 members)

~~Seeial~~ Human Services; Public Health; Public Safety; Temperance; Matters affecting the Military and Veterans.

11. Transportation: (~~15~~ 16 members)

Highways and Bridges; Railroads; Motor Vehicles; Airlines and Airports.

PROCEDURAL COMMITTEES

12. Delayed Bills, to consist of five members.

13. Employment, to consist of five members.

14. ~~Enrolled and Engressed Bills, to consist of five members-~~

- ~~15-~~ Correction and Revision and ~~Correction~~ of the Journal, to consist of five members.

- ~~16-~~ 15. Rules, to consist of nine members.

In the event of a change in membership, notwithstanding committee provisions provided in Rule 501, the Speaker may assign the new member to a committee or committees.

SECTION 12. AMENDMENT. Subsection 3 of House Rule 504 is hereby amended to read as follows:

3. The Committees on Political Subdivisions; ~~Seeial~~ Human Services and Veterans Affairs; Transportation; Agriculture; and Natural Resources shall meet on Thursday and Friday of each week.

SECTION 13. AMENDMENT. House Rule 509 is hereby amended to read as follows:

509. ENROLLMENT

~~The Committee on Enrollment shall examine all All House bills and resolutions which that have passed both houses, and when reported correctly must be enrolled, and such report is adopted, they shall be presented to the presiding officers of the House and Senate for signatures, and when so signed, bills shall be presented to the Governor for his approval. The committee may report at any time.~~

SECTION 14. AMENDMENT. House Rule 605 is hereby amended to read as follows:

605. CONFERENCE COMMITTEE REPORTS, EXCEPTION TO HOUSE RULES 601 AND 332

The provisions of House Rules 601 and 332 shall not prohibit the reading of a conference committee report and adoption or rejection of any recommended amendments, nor the placing of any bill or resolution affected by such the conference committee report on the calendar for final action on the same day the conference committee report is received. If the conference committee report is to adopt recommended amendments, adoption of the report is adoption of the amendments. If the conference committee report is to reject recommended amendments, adoption of the report is rejection of the amendments.

SECTION 15. AMENDMENT. Joint Rule 203 is hereby amended to read as follows:

203. LIMITATION ON MESSAGING OF BILLS - CROSSOVER DAYS

1. No bill that has passed one house shall be sent to the other house for concurrence after the ~~thirty-third~~ thirty-fourth legislative day of the session, except bills introduced after the first fifteen legislative days of the session by the Committee on Delayed Bills or introduced with the concurrence of two-thirds or more of the members of the house of introduction.
2. No resolution directing the Legislative Council to carry out a study that has passed one house shall be sent to the other house for concurrence after the

thirty-eighth legislative day of the session, except study resolutions introduced after the ~~thirty-third~~ thirty-fourth legislative day by the Committee on Delayed Bills or introduced with the concurrence of two-thirds or more of the members of the house of introduction.

SECTION 16. AMENDMENT. Joint Rule 206 is hereby amended to read as follows:

206. UNCONTESTED BILLS - CONSENT CALENDAR

1. Each standing committee may report an uncontested bill, uncontested resolution, or contested resolution out of committee and may include in its committee report a recommendation that it be placed on the consent calendar.
2. As used in this rule, "uncontested bill" ~~for~~ "resolution" or uncontested resolution means any bill or resolution, except those containing appropriations, which receives a do pass or do pass as amended recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present. As used in this rule, "contested resolution" means any resolution that receives a do pass or do pass as amended recommendation from the committee to which it was referred, by any vote other than a unanimous vote of the members present provided a quorum is present.
3. Following the presentation of a committee report recommending passage, or the adoption of committee amendments, if any, all bills or resolutions reported recommended by the committee as uncontested for placement on the consent calendar shall be placed on the consent calendar, and shall be known as "consent calendar bills" (or "resolutions").
4. Any consent calendar bill or resolution which is amended from the floor shall cease to be a consent calendar bill or resolution and shall be placed on the regular calendar.
5. Upon objection of one-third of the members-elect to the placement or retention of any uncontested bill or uncontested resolution to the consent calendar or upon objection of any member to the placement or retention of any contested resolution to the consent calendar, such shall cease to be a consent calendar bill or resolution and shall be placed on the regular calendar.

6. No consent calendar bill or resolution shall be considered for adoption on the same legislative day it is placed on the consent calendar.

SECTION 17. AMENDMENT. Joint Rule 208 is hereby amended to read as follows:

208. INTRODUCTION OF EXECUTIVE DEPARTMENT AND SUPREME COURT BILLS

Each executive agency and the Supreme Court shall file those bills they wish to have introduced with the Legislative Council during the organizational session, or thereafter, but no later than December fifteenth prior to the ensuing regular session. Such bills will be deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill. The Legislative Council will deliver those bills to the President of the Senate or the Speaker of the House for recording and numbering. Executive agency and Supreme Court bills will be identified by noting the name of the agency or the court under the name of the sponsoring committee. The identification of a bill introduced under this rule may include the names of not more than five entities authorized to file bills under this rule.

REP. KRETSCHMAR, Chairman

MOTIONS

REP. KRETSCHMAR MOVED that Section 9 be deleted from the report of the procedural **Committee on Rules**, which motion prevailed.

REP. KRETSCHMAR MOVED that Section 14 be deleted from the report of the procedural **Committee on Rules**, which motion prevailed.

REP. KRETSCHMAR MOVED that the report of the procedural **Committee on Rules**, as amended by deleting Sections 9 and 14, be adopted, which motion prevailed.

RULING BY THE SPEAKER

SPEAKER KLOUBEC RULED that a recorded roll call vote was necessary to adopt House Rules.

ROLL CALL

The question being on the adoption of the report of the procedural **Committee on Rules**, as amended, the roll was called and there were 99 YEAS, 0 NAYS, 7 ABSENT AND NOT VOTING.

YEAS: Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knell; Knudson;

Koland; Kolbo; Kretschmar; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Martin; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, W.; Winkelman; Speaker Kloubec

NAYS: None

ABSENT AND NOT VOTING: Aas; Kuchera; Marks; Martinson; O'Shea; Trautman; Williams, C.

The report of the procedural Committee on Rules, as amended, was adopted.

MOTIONS

REP. STRINDEN MOVED that the absent members be excused, which motion prevailed.

REP. STRINDEN MOVED that the House be on the Ninth order of business, and at the conclusion of the Ninth order, the House stand adjourned until 1:00 p.m., Thursday, January 8, 1987, which motion prevailed.

FIRST READING OF HOUSE BILLS

Rep. Melby introduced:

HB 1251: A BILL for an Act to amend and reenact sections 49-18-14, 49-18-15, and 49-18-23 of the North Dakota Century Code, relating to motor carrier permits.

Was read the first time and referred to the Committee on Transportation.

Rep. Melby introduced:

HB 1252: A BILL for an Act to amend and reenact subsections 2 and 4 of section 43-12.1-02, subsection 2 of section 43-12.1-04, subsections 6, 7, and 8 of section 43-12.1-08, subsections 1 and 2 of section 43-12.1-10, subsection 1 of section 43-12.1-12, and subsection 5 of section 43-12.1-15 of the North Dakota Century Code, relating to licensed practical nurses, registered nurses, and nursing education schools and programs.

Was read the first time and referred to the Committee on Human Services and Veterans Affairs.

FIRST READING OF A HOUSE CONCURRENT RESOLUTION

Rep. Melby introduced:

HCR 3009: A concurrent resolution for the ratification of a proposed amendment to the Constitution of the United States, providing for a delay in an increase in

compensation to members of Congress until an intervening election of representatives has occurred.
Was read the first time and referred to the **Committee on State and Federal Government**.

The House stood adjourned pursuant to Representative Strinden's motion.

ROY GILBREATH, Chief Clerk