

**MINNESOTA CITIZENS COMMISSION
FOR THE PRESERVATION OF AN IMPARTIAL JUDICIARY**

**MINUTES
July 18, 2006
Public Hearing in St. Paul**

Present: Gov. Al Quie—chair, Justice G. Barry Anderson, John Brandl, Greg Bulinski, Judge Thomas Kalitowski, Patrick Kelly, Dr. Reatha Clark King, Eric Lipman, Dan Mikel, Jann Olsten, Vance Opperman, Justice Alan Page, Helen Palmer, George Soule, John Stanoch, Mary Vasaly, Robin Wolpert.

Staff: Nancy Mischel.

Welcome and Introduction: Gov. Quie welcomed members of the public and encouraged them to participate in the public hearings and share their views with the Commission. Gov. Quie then conducted a PowerPoint presentation and introduced the public to the key issues facing the Commission and the public.

Robert McClain: Mr. McClain testified that the courts belong to the people in our democracy, and that the people should have a direct role in selecting judges. He warned of the danger of putting the power of judicial selection in the hands of elites, who may have a political, economic, or social agenda to achieve through the courts. He also warned of the danger of a self-supervised judiciary, which could become corrupt and biased. The role of the courts is to be fair and impartial and the vote is the only leverage for those who seek to maintain that impartiality. Mr. McClain supports term limits and rotation of office as methods of insuring impartiality and “new wisdom.” He believes that elections provide an important way for individuals to bypass the current method of selection by governors and obtain judgeships.

Peter Swanson: Mr. Swanson is a Twin Cities attorney. He testified that he supports the Missouri plan (initial appointment by the governor followed by a retention election). Mr. Swanson explained that historically, governors have appointed good and qualified judges. Occasionally, however, there is a “bad apple.” Retention elections permit the public to get rid of the bad apple. Mr. Swanson does not like the federal approach because the confirmation hearings are too political. **Mr. Lipman** asked whether retention elections could be partisan events because an incumbent still needs to engage in fundraising activities. Mr. Swanson responded that fundraising efforts would be less in retention elections than in contested elections.

Andrew Luger: Mr. Luger is a local trial attorney and a candidate for Hennepin County Attorney. He testified that public trust in the fairness of the judicial process is a core value that must be preserved, regardless of the method of judicial selection. **Justice Anderson** asked Mr. Luger to provide his personal views on judicial selection. Mr. Luger responded that he was concerned about the influence of campaign money on our system of justice, and he was concerned that the *White* decisions would have the effect of increasing the cost of judicial races and the fundraising activities of judicial candidates.

Mike Padden: Mr. Padden is a trial attorney and the attorney for the Independence Party. Mr. Padden testified that the Independence Party is concerned that the *White* decisions, by permitting judicial candidates to take positions on disputed legal issues and directly solicit contributions, will undermine judicial independence and produce biased judges.

Greg Wersal: Mr. Wersal was one of the plaintiffs in the *White* case. He testified that party endorsements of judicial candidates should be encouraged. He also testified that judicial elections were valuable because they permit the people to temper the arrogance of judges and place limits on judicial independence. Mr. Wersal explained that stating views on legal or political issues does not undermine impartiality because judges issue opinions on legal issues all the time. If the Commission is concerned about the influence of campaign contributions on judicial behavior, it should recommend limiting the contributions of attorneys to judicial campaigns and it should recommend a monetary limit on individual contributions to judicial campaigns. Mr. Wersal does not believe, however, that there is too much money in judicial campaigns. Instead, he believes that more money needs to go to judicial campaigns so that the candidates can get their message out to the voting public. If judicial elections are going to work, they need to be well-financed and candidates need to be able to state their positions on the issues.

Kathryn Bratten: Ms. Bratten testified that she and her family were negatively affected by the judicial system. She explained that before this occurred, she was not concerned about the issue of judicial selection and simply voted for the incumbent. Now, Ms. Bratten believes that judges should be chosen by a bipartisan process and supports retention elections.

Jay Benanav: Mr. Benanav is a candidate for Ramsey County District Court. Mr. Benanav testified that he has great trust in the public to make good choices and good decisions in selecting judges at the polls. We need to give the voters the tools to use those elections to make informed choices. This means we must give voters the opportunity to learn about judicial candidates, their qualifications, and their performance on the bench. Mr. Benanav supports campaign contribution limits and public financing of judicial campaigns. He has not sought partisan endorsement of his candidacy.

Carol Chomsky: Ms. Chomsky is a law professor at the University of Minnesota Law School. She testified that because judges' attitudes and life experiences affect judicial decision-making, we need to know what those attitudes and experiences are so that we can evaluate judicial candidates. Professor Chomsky also testified that the fairness of the judicial process is very important. Litigants and attorneys need to know that a judge has not pre-judged certain issues, and seeking partisan endorsement compromises fairness and the public perception of fairness. Professor Chomsky supports retention elections because such elections permit public accountability without the presence of a challenger. Through retention elections, the public can evaluate the personal characteristics of judges that will affect behavior on the bench rather than focusing on disputes among the candidates regarding issues.

Dianne Loeffler: Ms. Loeffler is a state representative serving Northeast Minneapolis. She testified that fairness is the most significant feature of the judicial system. Courts have the authority to make life-altering decisions affecting the personal lives of the parties before them. It is very important that the judges are not biased in making such important decisions and that the parties believe that the decision-making process is fair. Voters do not currently have enough information to make informed decisions at the polls on judicial candidates. But partisan endorsement is not the answer. It is important to have accountable judges. It is also important to have public financing of judicial campaigns, increase the information available to the voters, and discourage the coordination of judicial and legislative/executive campaigns.

Gail Chang Bohr: Ms. Bohr is the executive director of Children's Law Center. She testified that she supports judicial elections. As an immigrant and naturalized citizen, one of the most important features of our system of government is the right to vote. Ms. Bohr testified that there is a difference between accountability and partisanship. Accountability provides transparency in government and that is a valuable tool for the people. Ms. Bohr values the right to vote in judicial elections because it gives minorities and women the opportunities to become judges.