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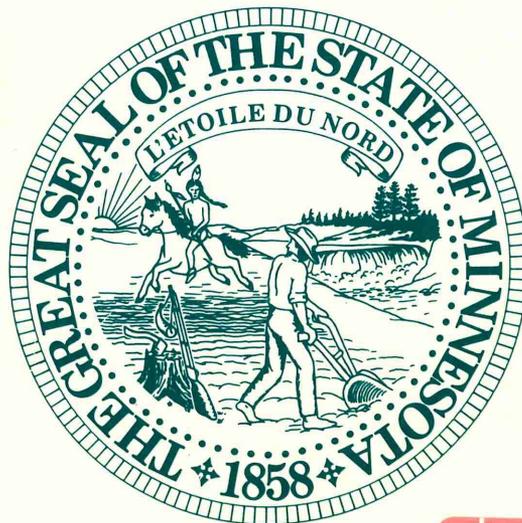
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# Biennial Report

Major  
Activities  
1987-1988

# Minnesota Attorney General

Hubert H. Humphrey III



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1987/88



Pursuant to Mn Stat 8.08



HUBERT H. HUMPHREY, III  
ATTORNEY GENERAL

## STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:  
102 CAPITOL BUILDING  
ST. PAUL, MN 55155  
TELEPHONE: (612) 296-6196



To: The Honorable Rudy Perpich, Governor of the State of Minnesota  
And The Legislature of the State of Minnesota.

As Attorney General, I've made it a priority to provide information and assistance to Minnesotans, to enforce state laws to protect the public, to develop special programs to meet particular needs, to diligently represent the legal interests of the state of Minnesota and to propose new laws to make Minnesota a better place for our citizens to live and work.

Highlights of the work of the Attorney General's Office over the last two years include implementation of the Farmer-Lender Mediation Act, an innovative effort to help family farmers. Since its creation in 1986, the mediation program has helped more than 2,500 farmers work out debt restructuring agreements with their creditors. Designed to keep farmers on their land, the program has become a model for similar legislation throughout the country and is receiving credit for lowering farm bankruptcy rates in the state.

My Office has been vigilant in protecting the environment, advocating tougher laws against polluters and working to clean up Minnesota's hazardous waste sites. After months of intense negotiations, my Office and the Minnesota Pollution Control Agency in July 1987 secured a landmark hazardous waste cleanup agreement from the U.S. Department of Defense for groundwater and surface contamination at its Twin Cities Army Ammunition Plant. This was the first agreement of its kind under the amended federal Superfund law.

As crack and cocaine began their dangerous march from the coasts two years ago, I began working with law enforcement and in our schools to establish a coordinated, statewide effort to prevent drug abuse by our young people. The Attorney General's Alliance for a Drug-Free Minnesota has offered communities a directory of the prevention programs available in the state and assistance in getting their own drug and alcohol prevention programs started. The Minnesota North Stars and the Minnesota Vikings joined me in sponsoring contests for schools that participate in drug-free activities. Now in its second year, the Alliance has been a success in helping curb the demand for drugs by Minnesota's youth.

Finally, we continue our efforts to protect consumers and businesses from exploitation. The Consumer Division handles more than 100,000 calls every year and recovered more than \$1 million in the last two years for consumers. Accomplishments in this biennium include a warranty protection law for used-car buyers and the shutting down of fraudulent schemes designed to prey on people's fear of AIDS.

Pursuant to Minn. Stat. 8.08, this report on the legal activities of the Office of the Attorney General on behalf of the state and its citizens for the 1987-88 biennium is respectfully submitted.

Best regards,

  
HUBERT H. HUMPHREY III  
Attorney General

AN EQUAL OPPORTUNITY EMPLOYER

**TABLE OF  
CONTENTS**

<b>Responsibilities of the Attorney General .....</b>	<b>4</b>
<b>Organization and Management of the Office .....</b>	<b>5</b>
<b>Law Enforcement .....</b>	<b>6</b>
Medicaid Fraud Prosecution .....	6
Consumer Protection.....	7
Criminal Prosecution and Appeals .....	9
Antitrust Enforcement.....	10
Charitable Organization and Trust Oversight .....	11
<b>Litigation and Policy .....</b>	<b>12</b>
Litigation.....	12
Rural Assistance .....	13
Environmental Initiatives .....	14
Special Projects .....	15
<b>Human Resources .....</b>	<b>16</b>
Education .....	16
Human Services .....	17
Health .....	18
<b>Public Resources .....</b>	<b>20</b>
Environmental Protection .....	20
Natural Resources Management .....	22
<b>Business Regulation .....</b>	<b>23</b>
Human Rights .....	23
Commerce .....	24
Protection of Workers .....	26
Public Utility Users .....	27
Utility Regulation .....	28
<b>Government Services .....</b>	<b>29</b>
Public Finance .....	29
Public Safety .....	30
Residential/Small Business Utilities .....	31
Tax Litigation .....	32
Tort Claims .....	33
Transportation .....	34
<b>Legislation .....</b>	<b>35</b>
<b>Opinions .....</b>	<b>37</b>
<b>Directory .....</b>	<b>38</b>

## RESPONSIBILITIES OF THE ATTORNEY GENERAL

*Mary Ann Bernard, special assistant attorney general, represented the state before the Minnesota Supreme Court as it reviewed a lower court decision involving the statutory limit on recovery in tort actions against the state of Minnesota.*

Attorney General Hubert Humphrey III is the chief legal officer of the state, with duties that stem from the Minnesota Constitution, state statute and common law. The Attorney General may initiate, conduct and maintain any action or proceeding deemed necessary to enforce the laws of the state, preserve the order and protect the public's rights.

The Attorney General and staff represent the citizens of Minnesota in challenges to the state Constitution and in criminal, consumer protection and antitrust cases. The Office serves the public directly through citizen assistance, public education efforts and litigation initiated in the name of the Attorney General. The Office receives more than 100,000 calls a year from citizens seeking advice or assistance. In addition, the Attorney General has established numerous task forces and panels to study legal issues of concern to Minnesotans and report on possible solutions.

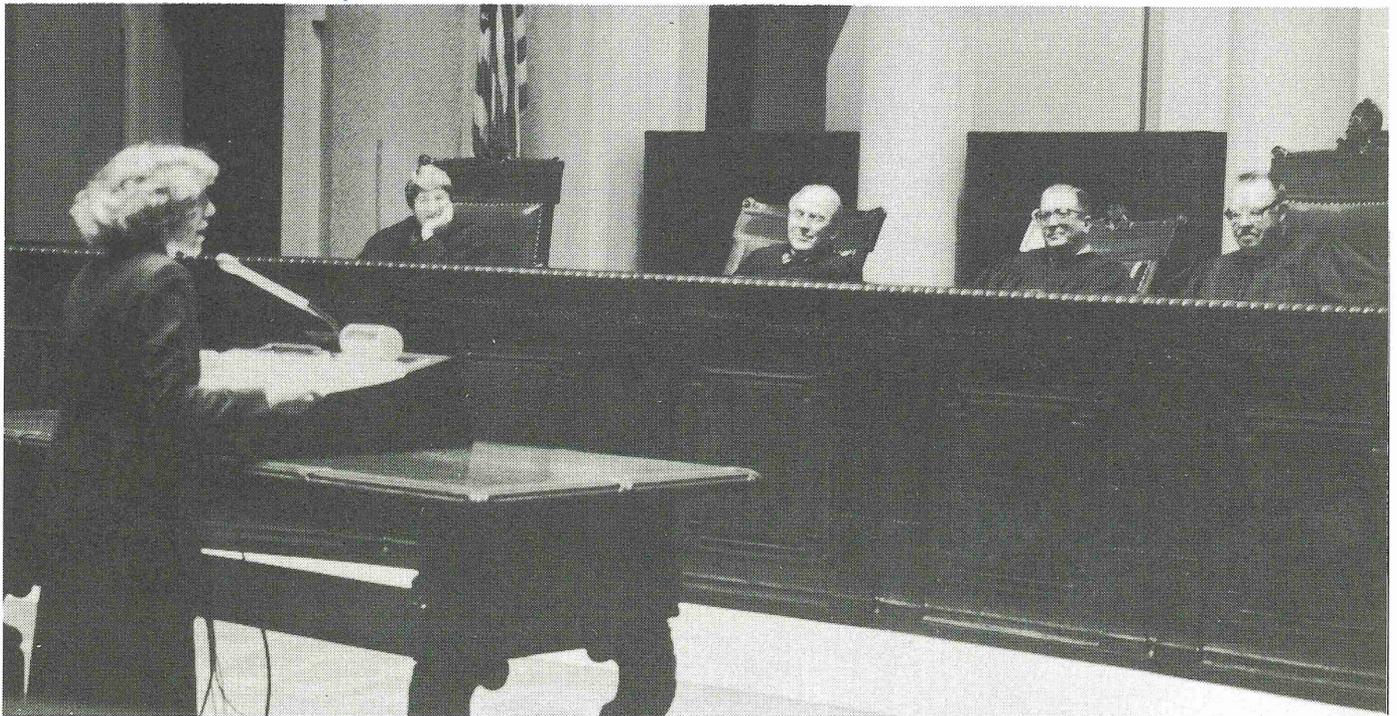
The Office serves the state and its citizens, as well, by acting as counsel for

over 100 state agencies, boards and commissions, including the Departments of Health, Education, Natural Resources, Human Rights, Human Services, Public Safety and the Public Utilities Commission.

To safeguard the public's interests, Attorney General Humphrey is an active participant in the law-making process. He proposes new legislation, supports and works for passage of bills and testifies at the Legislature and before Congress.

The Attorney General represents the state in all cases before the Minnesota Court of Appeals and the Minnesota Supreme Court and in federal courts up to and including the U.S. Supreme Court. The Office also represents the state in all civil cases in state courts and in criminal cases when requested to do so by the Governor or a county attorney.

The Office interprets state law for and provides opinions to local units of government to ensure that they act in compliance with Minnesota's laws.



## ORGANIZATION AND MANAGEMENT OF THE OFFICE

*Attorney General Hubert H. Humphrey (center, front) is flanked by John R. Tunheim (left), Chief Deputy Attorney General and Norman B. Coleman, Jr., Solicitor General. Management staff in the back row are: Catharine F. Haukedahl, Assistant Chief Deputy Attorney General; Thomas R. Muck, Deputy Attorney General; Stephen P. Kilgriff, Deputy Attorney General; Charles I. Wikelius, Deputy Attorney General; Joseph M. Reid, Administrative Manager; and Linda Close, Deputy Attorney General. Not shown is C. Paul Faraci, Deputy Attorney General.*

The Attorney General's staff is directed by the Chief Deputy Attorney General. The senior management staff meets regularly to coordinate the legal work provided by the Attorney General's Office and to advise Attorney General Humphrey on Office policies. The executive committee, formed by Attorney General Humphrey in 1984, is chaired by the Chief Deputy Attorney General and includes the five Deputy Attorneys General, the Solicitor General, the Administrative Manager and the Assistant Chief Deputy Attorney General.

The Deputy Attorneys General and the Solicitor General each supervise a number of office divisions and policy areas, while the Solicitor General, the Administrative Manager and the Assistant Chief Deputy directly assist in overall management of the Office.

The twenty-nine divisions and units in the Attorney General's Office are supervised by managers, most of whom are Assistant Attorneys General. The divisions and units, each responsible for a substantive area of law, are grouped in clusters under the supervision of a Deputy Attorney General. (At the present time, the groupings of divisions is the result of historical factors rather than policy or functional considerations. Long-range management plans call for a reorganization in clusters along functional lines in order to take advantage of expertise found among staff members who work on legal matters with similar clients or issues.)

Staff attorneys assigned to the Office's divisions and units are Special Assistant Attorneys General.



## LAW ENFORCEMENT

Attorney General Humphrey plays a critical leadership role in Minnesota's criminal justice and law enforcement communities. As a chief law enforcement official in the state, he directs attorneys and investigators in five divisions who initiate appropriate civil litigation or criminal prosecutions to protect the lives and property of Minnesota citizens.

In its law enforcement role, the Office handles cases ranging from white-collar theft to homicide, from child sexual abuse to bid-rigging and from Medicaid fraud to phony charities.

The Attorney General's Office enjoys a close working relationship with law enforcement agencies and prosecutors at the local, state and federal level. Of particular note is the Attorney General's leadership in providing resources to assist in police and prosecutor training throughout Minnesota. The Office has begun to take a leadership role nationally, particularly in consumer protection cases, and has continued its efforts to mediate and resolve consumer complaints, numbered now at more than 100,000 each year.

### Medicaid Fraud Prosecution

Attorney General Humphrey established a new division in 1983 to investigate and prosecute an area of white-collar crime that was becoming a nationwide problem. One of the most active and successful such efforts in the country, it is funded by a 75-25 percent federal and state match.

Major responsibilities are to investigate and prosecute Medicaid vendor fraud, patient abuse or neglect and theft of private funds from patients in facilities that receive Medicaid funds. The doctors, dentists, pharmacists, psychologists, personal care attendants and nursing homes which receive Medicaid reimbursement come under the Office's jurisdiction.

In its five years of operation, Medicaid Fraud has recovered more than \$1.2 million in fines, restitution and settlement awards and has caused many violators to spend time in jail, on probation or in community service work.

The Office also represents the Department of Human Services in administrative hearings against providers suspected of criminal fraud, resulting in \$347,000 in settlements against five providers in the second year of the biennium.

Examples of other activities in the biennium include:

1. Double Billing — A Twin Cities

osteopath was found to have billed Medicaid for services to nursing home patients after already having been paid by the nursing homes. In the settlement of the state's lawsuit, the physician will pay \$85,000.

2. Fraudulent Billing — A Hibbing-area anesthesiologist was ordered to repay nearly \$147,000 as a result of his fraudulent billing practices. Recognizing that there are few practitioners of his specialty in the area, the doctor was allowed to practice during his jail term, with the fees going to support a local medical center.

3. Dentistry Case — A Twin Cities dentist was ordered to serve 60 days in jail and pay \$26,000 in fines and restitution for falsely billing Medicaid for dentures that patients never received. The monetary figure represented three times the amount of public funds the dentist had wrongfully received.

4. Group Home License Revocation — A group home owner in the Walker, Minn., area was convicted of repeated sexual abuse of a mentally handicapped resident. Under the terms of his probationary sentence, he was required to serve four months in jail, pay \$1,500 in legal costs and have no involvement in group homes with female residents. In a separate action, his license to operate group homes was revoked.



*Deborah Johnson, investigator, and John Rutz, investigative auditor, examine nursing home records seized by the Attorney General as part of a Medicaid fraud investigation.*

## Consumer Protection

When Minnesota's consumers have questions or complaints, they call the Attorney General's Office. More than 100,000 people each year contact the Consumer Services Unit, assembled in 1983 by Attorney General Humphrey to answer questions, take complaints and mediate voluntary settlements, where possible. As a result, more than \$1 million in settlements was recovered for the state's consumers in 1987 alone.

The Circuit Rider program brings mediation services to Greater Minnesota by sending complaint mediators to

nineteen cities around Minnesota to assist consumers.

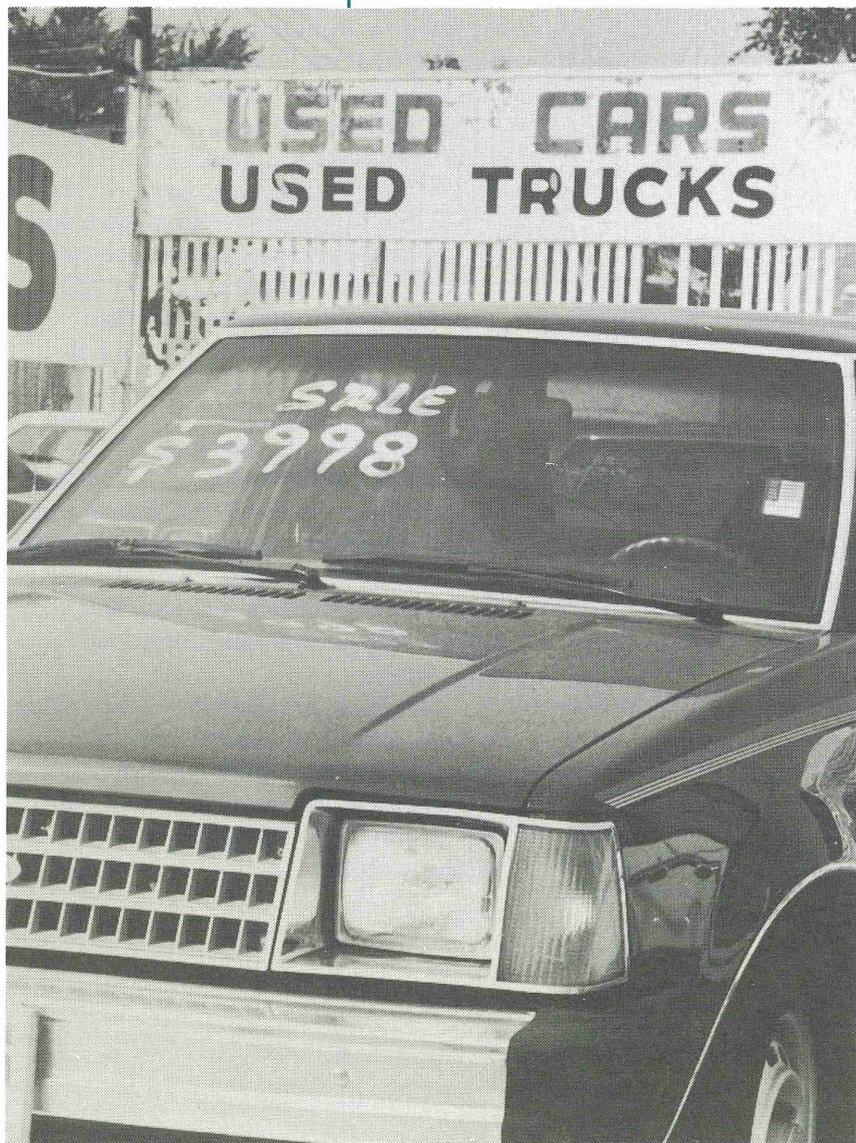
Staff attorneys investigate and litigate a broad range of consumer-related cases, including bait-and-switch practices, violations of motor vehicle repair laws, pyramid sales, odometer 'spinning,' landlord-tenant disputes, home repair fraud and many other types of deceptive practices. With federal consumer protection activity sharply curtailed over the last eight years, the Office has become increasingly involved in product safety issues, most notably in the case of three-wheeled all-terrain vehicles, which no longer are offered for sale by manufacturers. Judgments for fines, penalties, restitution, costs and attorney fees came to more than \$3 million during the biennium.

Significant activities on behalf of consumers in the last two years include:

1. **Odometer Tampering** — Minnesota was one of five states to initiate action against Chrysler Corporation for long-term, systematic odometer tampering. Under a settlement agreement negotiated by Attorney General Humphrey and attorneys general in nine other states (since joined by most states), Chrysler will refund more than \$20 million to U.S. consumers, including \$375,000 to Minnesota victims so far identified.

2. **Three-Wheeled Vehicles** — The Office played a lead role in a multistate effort to discontinue further sales of three-wheeled vehicles, cited by the U.S. Consumer Product Safety Commission as the most serious product safety hazard ever identified.

3. **'Lemon Law'** — The state's 'lemon law' provisions have been extended to cover used cars, guaranteeing basic warranty coverage on key components without a rise in price. In addition, through a combination of legislation,



litigation and negotiation, all major auto manufacturers now offer fair, simple and inexpensive arbitration programs for Minnesota car buyers, a program many manufacturers offer only in this state.

**4. Mail-Order Machinery** — A consumer fraud suit against Rebel Industries, et al. halted a nationwide scheme to defraud mail-order purchasers of farm machinery. The Office's action resulted in a judgment of \$500,000 against Rebel and led to successful criminal prosecution by the U.S. Postal Inspection Service, which described it as one of the largest agricultural frauds ever prosecuted in Minnesota.

Humphrey developed and won passage of legislation to better safeguard and monitor funds held in trust for consumers by operators of cemeteries, mausoleums and funeral homes.

**7. Telemarketing Scams** — The Attorney General took legal action against operators of telemarketing scams who make phony charitable appeals, offer deceptive prizes and deceptively use 976 'pay-per-call' telephone services. The Office helped organize a pioneering computerized data-sharing project involving states, the federal government and the business community to help identify and prosecute telemarketing frauds.

**8. Complaints Against Airlines** — Numerous travelers were assisted by Attorney General Humphrey in their complaints against airlines for flight delays and cancellations, lost luggage and other service-related problems.

**9. Deceptive Advertising** — The Office has played a key role in developing national guidelines against deceptive advertising by the airline industry and has taken legal action against more than twenty operators of deceptive bargain-vacation scams.

**10. AIDS Frauds** — Legal action halted operation of companies selling memberships in a fraudulent 'AIDS-free' club and 'do-it-yourself' AIDS tests that preyed on people's fear of contracting the disease. One of Attorney General Humphrey's priorities is to stop any scheme that spreads misinformation about AIDS.

**11. Deceptive Claims** — The Office halted operation of a fraudulent radon testing service through legal action as well as deceptive claims for a diet pill which promoters claimed removed fat 'while you sleep.'



*Attorney General Humphrey filed suit against an AIDS 'card club' which purported that its members had been tested and were free of the disease. Lisa Sieben and Don Donahugh, investigators, are shown with a copy of an ad for the club that ran in the University of Minnesota Daily.*

**5. Mobile Home Parks** — Owners of three large mobile home parks rescinded abusive and unfair park rules following legal action by the Attorney General.

**6. Burial Fraud** — The Attorney General obtained a \$789,000 judgment against the operators of Hillcrest Cemetery in Albert Lea as a result of a consumer fraud suit and succeeded in having ownership transferred to a community-based board of trustees. As a result of this case and others, Attorney General

## Criminal Prosecution and Appeals

When Minnesota's county attorneys require assistance in prosecuting a case, the Attorney General's Office may be called in.

The Office makes its services available to handle prosecution of many types of complex crime, ranging from murder to violation of environmental law, from criminal sexual conduct to sophisticated white-collar theft. During the past biennium, increased emphasis has been placed on prosecuting violators of hazardous waste law and those suspected of sexually abusing children, two areas which received little public attention in the past.

For cases on appeal, the Attorney General assists the interests of law enforcement before the appeals courts, where development of the law often takes place. The Office handles the great majority of criminal appeals for all but the five largest of Minnesota's eighty-seven counties. Staff attorneys defend the constitutionality of criminal laws and work to ensure that convictions are upheld on appeal.

Examples of the Office's work in criminal matters and cases on appeal in the last biennium include:

1. Homicide Cases — Two homicide cases, State v. David Shoop and State v. Newman, arose out of the brutal shooting death of Timothy Hummel in a farm field outside Austin in October 1986. Shoop was found guilty of second degree murder after a three-week trial in July 1987 and Newman subsequently pleaded guilty to second degree murder at a hearing handled by the Mower County Attorney. Both of the subsequent appeals were handled by the Attorney General.

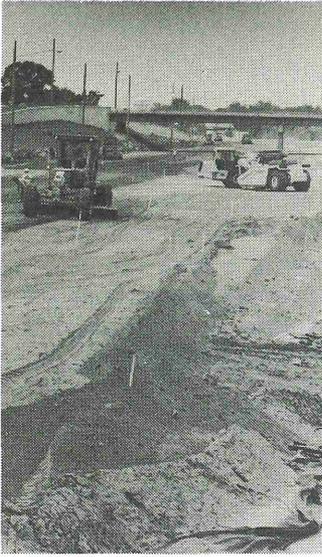
2. Sexual Abuse — An adult brother in Otter Tail County was charged with sexually abusing his younger sister in State v. William Shamp. The first degree criminal sexual conduct trial resulted in a guilty verdict in February 1987. The subsequent appeal was handled by the Attorney General and the conviction was upheld by the Minnesota Supreme Court in August 1988.

3. Securities Fraud — In a case of white-collar crime in Blue Earth County, the Office investigated and charged securities law and theft violations against Greg O'Donnell for the fraudulent selling of investments in what he called 'O'Donnell's Touch of Gold.' The defendant was convicted on all seven counts charged and received both a jail term and an order to pay restitution to his victims.

4. Sentencing Appeal — The Attorney General successfully argued an appeal to uphold the maximum ten-year prison term given to Timothy Steinhaus for first degree assault against his infant son that resulted in the child being in a vegetative state. The sentence was almost three times longer than the presumptive sentence under Minnesota Sentencing Guidelines.

5. Tax Crime Cases — The Attorney General is participating in a joint effort to prosecute tax cheaters, those who fail to file tax returns or commit other tax crimes. Begun in 1986, the coordinated criminal tax law enforcement project also includes the Hennepin County Attorney, other county attorneys and the Department of Revenue.

The Attorney General assists the Department in investigating cases and has prosecuted a number of them. For example, the Office successfully prosecuted a case against an attorney whose income was \$55,000 in 1983 and \$50,000 in 1984 but filed no state income tax returns for either of those years.



## Antitrust Enforcement

To safeguard the state's economy the Attorney General investigates and prosecutes violations of antitrust laws, including such practices as highway construction bid-rigging, anticompetitive mergers and price fixing.

Several trends in the 1980s have had significant impact on the Office's operation. State attorneys general have emerged as the law enforcers most interested in attacking anticompetitive mergers and business cartels as the federal government withdraws from this traditional area of antitrust enforcement. Another trend has been the need to use criminal prosecution to deter hard-core antitrust violations, such as bid-rigging and price fixing. And, the federal courts have shown a retreat from seemingly established principles of antitrust liability, a shift that generally has been favorable to defendants.

States increasingly are pooling their resources to fill the void left by these trends, with Attorney General Humphrey establishing Minnesota as a state with vigorous enforcement programs.

Among actions by the Office in the last biennium:

**1. Insurance Cases** — Following a two-year investigation, Attorney General Humphrey and attorneys general from four other states filed suit in March 1988 against thirty-one defendants, including American insurance companies and Lloyds of London. The suit challenges concerted action by property/casualty insurers and their trade association, with a goal of reforming the industry, which has operated under a blanket of anticompetitive protection for four decades. Eighteen states are now party to the lawsuit.

**2. Bid-Rigging Cases** — Attorney General Humphrey, continuing his emphasis on prosecuting bid-rigging on public road construction projects, began in August 1986 to distribute \$950,000 to local units of government. The funds represent the civil damage settlements obtained from twelve road construction companies for rigging bids on local government road construction projects. Eleven of the companies also were convicted of criminal antitrust violations, as were twenty-two company officials.

The combination of criminal and civil prosecutions made Minnesota's bid-rigging enforcement program one of the nation's most effective. Attorney General Humphrey has received an award for his Office's unique success in prosecuting bid-rigging from the U.S. Department of Transportation's Office of the Inspector General.

## Charitable Organization and Trust Oversight

The Attorney General represents the public's interest in monitoring charitable organizations and trusts and investigating and bringing actions against fraudulent solicitation campaigns, improper administration of charitable funds and breaches of fiduciary duty by directors and trustees. The Attorney General may also intervene in any litigation involving charitable organizations and trusts, including probate court litigation, if needed to protect the public interest.

Under a responsibility transferred to the Attorney General in 1987, the Office is the registry for approximately 2,300 publicly supported charitable organizations, 800 charitable trusts/foundations and seventy-six professional fundraisers.

Among actions taken in the last biennium:

**1. Charitable Purposes** — The Office's annual review of charitable organizations' financial statements turned up a Minnesota charity which received regular contributions but for four years had failed to spend any money or take any action toward its charitable purposes. By doing nothing more than placing contributions in a bank account, the charity not only was taking public money under false pretenses but also was risking its tax status, which put the money itself in jeopardy. After meeting and discussing the matter with the Attorney General's staff, the charity formed a new board and rededicated itself to fulfilling its purposes.

**2. Professional Fundraisers** — The Office successfully defended against a challenge of the constitutionality of state regulation of charities and professional fundraisers. In Heritage v. Fishman, the Heritage Publishing Company claimed that state laws violated its First Amendment speech right to solicit contributions. Heritage had been denied a license to solicit in Minnesota, based on a misleading solicitation and the fact that most of the funds collected were used for fundraising costs. Following this litigation, the Attorney General participated in ten enforcement actions against other fundraisers who violated state laws.

**3. Telemarketing Fraud** — In a national effort to prevent fraudulent telemarketing practices, the Attorney General joined other states and the Federal Trade Commission in filing a number of actions on a single day. One of the two cases filed by the Office was State of Minnesota v. NSBL Blind Association, Inc., in which a charity used telemarketing to offer free coupon books for contributions. The suit alleged, in part, that campaign costs were so high that only 6 to 8 percent of the total funds solicited would be used for charitable purposes. The subsequent settlement included a provision that if the defendants solicited contributions in Minnesota in the future, they must disclose to potential donors the amount of money which would be used for charitable purposes.

**4. Probate Matters** — As the state's representative in probate matters in which the deceased had no will and no known heirs, the Office's efforts resulted in nearly \$180,000 going to the state during the biennium.

## LITIGATION AND POLICY



*Attorney General Humphrey provides testimony about his proposals for the Farmer-Lender Mediation Act before a committee of the Minnesota Legislature.*

Attorney General Humphrey devotes significant resources to two important priorities of the Office of the Attorney General: Coordination of civil litigation on behalf of the state and development of legal policy in the public interest.

Attorney General Humphrey has directed additional resources to the function of officewide litigation coordination to meet the challenge of the increasing complexity of specialized civil cases, including constitutional challenges to state legislation.

Significant problems within the legal system in Minnesota have been addressed by development within the Office of legal policy objectives, particularly in the areas of agricultural, environmental and criminal justice issues. Attorney General Humphrey has used specialized units, work groups and task forces to focus on particular problems.

The Solicitor General Division has served to coordinate civil litigation and assist in many of the Office's policy initiatives.

Significant activities by the Attorney General's Office in the last biennium include:

### Litigation

Among cases handled by the Attorney General are:

1. Oil Overcharge Cases — One of the most complex settlements in the history of litigation was reached in 1986 through a joint effort by Minnesota and a group of other states. Under what is known as the Stripper Well Settlement, the participating states and the federal government agreed to split billions of dollars in crude oil overcharges collected from oil companies by the Department of Energy.

Minnesota already has collected \$16 million under the settlement and may receive another \$9 million in the next few years (oil companies paid the money in settlement for violating price controls in effect between 1973 and 1981). The Attorney General has been directly involved in the litigation throughout its lengthy history, saving Minnesota taxpayers the expense of retaining outside counsel, which in other states has run as high as \$1.4 million.

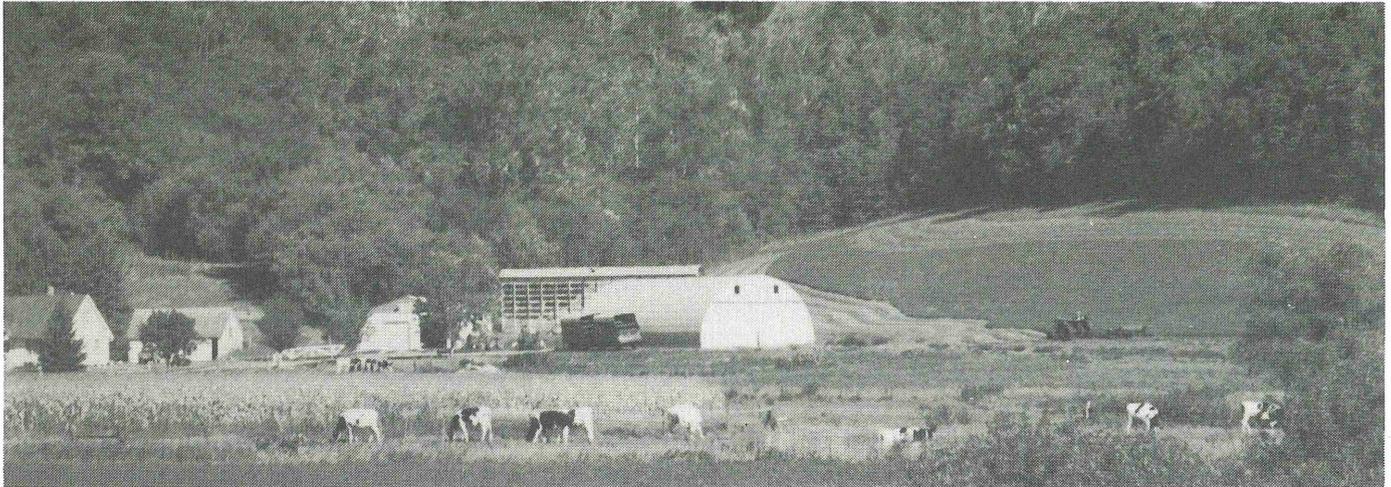
The Attorney General's Office has obtained more than \$45 million from several oil overcharge cases, with the money being used for a wide variety of energy conservation-related projects to benefit all Minnesotans.

2. Asbestos Litigation — The Office was successful in a lawsuit to force the Conwed Corp. to turn over medical and industrial hygiene records for workers who may have been exposed to asbestos at the firm's Cloquet plant between 1958 and 1974. The records were needed to set up a program in which the Minnesota Department of Health could notify workers and provide medical screening and an education program for workers and their families.

3. Parental Notification — The Attorney General defended the constitutionality of the state's parental notification statute, which requires that minors notify their parents or obtain a court order before proceeding with an abortion.

4. Miera Cases — Staff attorneys successfully defended the state against a court reporter's suit claiming sexual harassment by his judge-employer and the reporter's claim that the state should pay the judgment he won against the judge for battery.

5. National Guard Case — Attorney General Humphrey sued the U.S. Department of Defense to defend the authority of the nation's governors to withhold their consent for National Guard training missions outside the country.



## Rural Assistance

A number of initiatives by the Attorney General's Office have been designed to assist Minnesota's farmers, hard-hit by political and economic shifts and adverse weather conditions:

**1. Federal Lawsuit** — The Office challenged the U.S. Department of Agriculture's decision to terminate the farmer-owned reserve program and refusal to extend farmer-owned reserve and special producer storage loans. The lawsuit seeks to preserve more than \$100 million in storage income for Minnesota's farmers and save U.S. taxpayers more than \$220 million in additional storage costs.

**2. Farm Hot Line** — The Office continues to maintain the toll-free Farm and Home Preservation Hot Line which, since its establishment in 1983, has handled more than 20,000 calls from farmers and borrowers facing foreclosure or needing information or referral to other service providers.

**3. Hay Exchange** — To provide relief for drought-stricken farmers, Attorney General Humphrey used the Farm Hot Line for a special hay exchange project to match buyers and sellers of hay. The Office worked with Congress and the U.S. Department of Agriculture to facilitate hay and feed donations and to develop drought relief legislation to help Minnesota farmers.

**4. Rural Fraud** — The Attorney General investigated and took legal action against fraudulent schemes perpetrated on state farmers by securing a court order halting Common Title Bond and Trust's 'sight draft' scam in the northwestern portion of the state.

**5. Farm Credit** — To help ensure the availability of farm credit, the Attorney General worked to enact legislation, drafted comments on rules, conducted seminars and workshops, prepared amicus curiae (friend of the court) briefs and advocated Minnesota's credit interests before Congress, all actions designed to protect and strengthen the interests of farmer borrowers of the Farm Credit System and Farmers Home Administration.

## Environmental Initiatives

The Attorney General initiated the following environmental policy actions to protect the state's citizens and its resources:

**1. Infectious Waste** — Prompted by increasing public concern about the potential for health problems caused by infectious waste, the Attorney General headed an interagency task force that studied the issue with an eye to improving the regulation of medical waste and reducing the risk of infection to workers who handle it. (The term 'infectious waste' includes such things as body

fluids and hypodermic needles discarded by clinics, laboratories and hospitals.)

In a recently issued report, the task force recommended several changes in the regulatory system, including tightening the requirements for packaging and labeling and for waste management plans. The report also recommended a study of the effects of incinerating biomedical waste, as well as stronger enforcement programs and increased educational efforts.

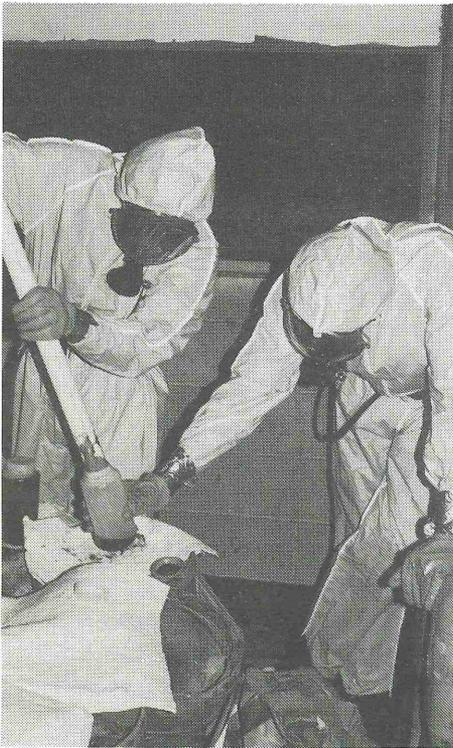
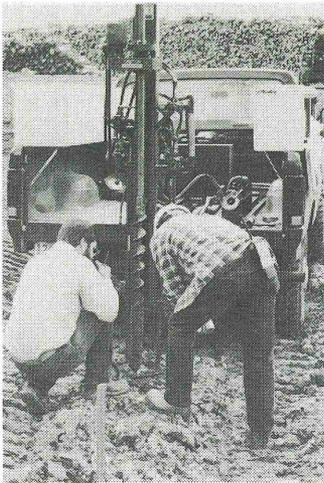
**2. Groundwater Protection** — The Environmental Unit participated in the preparation of Minnesota's groundwater protection strategy and in drafting groundwater protection legislation.

**3. Federal Facility Compliance** — As a result of its experience in reaching a settlement with the Twin Cities Army Ammunition Plant in which the Army agreed to clean up its hazardous waste, the Attorney General's Office has been involved in several federal facility compliance efforts. The Attorney General has prepared testimony for the U.S. House of Representatives and participated in a Federal Facilities Workgroup with the U.S. Environmental Protection Agency.

**4. Midwestern Waste Association** — The Attorney General helped develop programs for and obtain a federal grant to fund the Midwestern Hazardous Waste Association, composed of eight Midwestern states. The association develops multistate enforcement training programs, provides technical assistance to participating states and is establishing an interstate information exchange network.

**5. Criminal Enforcement** — To improve criminal enforcement, the Attorney General developed training programs on environmental crimes for the State Patrol as well as for state agency personnel and local law enforcement officials.

**6. National Participation** — The Office provided staff assistance to Attorney General Humphrey in his capacity as a member of the National Environmental Enforcement Council and as vice-chair of the environmental committee of the National Association of Attorneys General.



*Workers from companies retained by the Attorney General sample drums and soil suspected of containing hazardous waste following the execution of search warrants by staff attorneys.*

## Special Projects

1. Child Protection — Attorney General Humphrey appointed a Task Force on Child Abuse Within the Family, with representatives from religious, civic and community groups. Following its study, the task force issued a set of eighty-seven recommendations to help prevent child abuse, provide better and increased training for professionals and stronger leadership from providers of human services.

2. Anti-Drug Alliance — The Attorney General's Alliance for a Drug-Free Minnesota was established in 1987 to

help prevent drug and alcohol abuse by the state's young people. A guidebook prepared by the Alliance describes various prevention programs available to communities. In addition, a program called the North Stars Challenge enlisted fifty schools in activities and more than 7,000 young people in a pledge to remain drug- and alcohol-free for the school year.

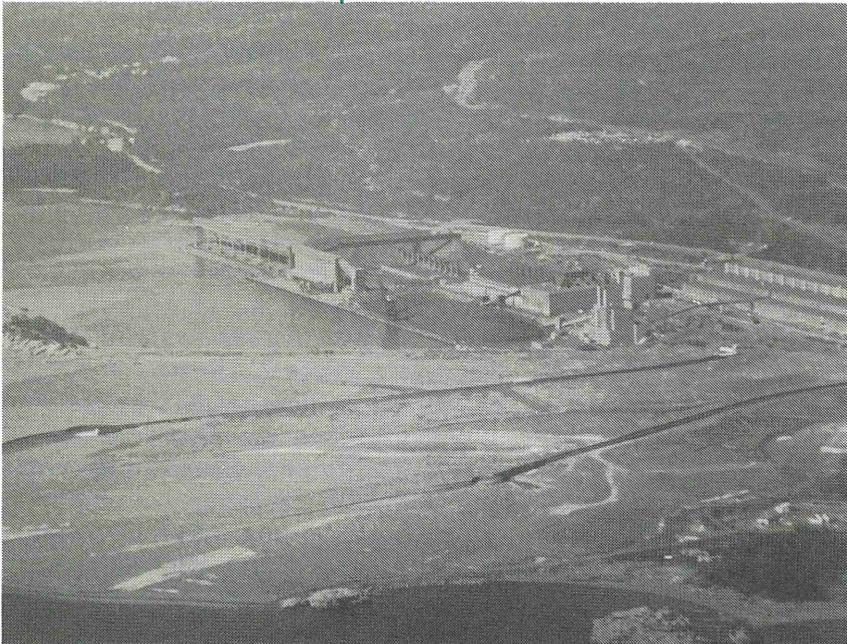
3. Benefit Protection — When Reserve Mining and LTV Steel filed for bankruptcy in July 1986, thousands of retired workers faced losing their medical insurance. Working with an interagency task force, Attorney General Humphrey negotiated an innovative settlement with Reserve Mining's trustee, the steelworkers union and secured creditors to establish a new medical insurance plan for employees and retirees. More than \$5 million in benefits had been provided by the plan by early 1988.

The Office helped facilitate development of a plan to address questions about dam safety and air and water quality at Reserve's Milepost 7 tailings basin. The Attorney General also is helping in efforts to reach a decision about Reserve's future and is working to recover unpaid taxes, workers' compensation benefits and royalty lease payments.

4. Sexual Violence — The Attorney General appointed and the Office coordinates a twenty-member Task Force on Prevention of Sexual Violence Against Women to develop recommendations for more stringent control of sex offenders and the prevention of rape through education.

5. Bicentennial Group — Attorney General Humphrey served as co-chair of Minnesota's Bicentennial Commission, which planned celebrations throughout the state for the 200th birthday of the U.S. Constitution.

*An aerial view of the Reserve Mining Company at Silver Bay, Minn.*



## HUMAN RESOURCES

The Attorney General is the legal representative of the Departments of Education, Health and Human Services, which have the dual missions of providing important services to the public and regulating providers of public services.

During the last biennium, the Office addressed a broad range of complex new issues as it began handling legal questions and issues surrounding AIDS. Staff attorneys also defended innovative legislation which permits high school students to attend public or private colleges and negotiated an end to a long-running class action suit against state hospitals.

### Education

Minnesota has placed a high priority on the education of its citizens and the Attorney General is responsible for providing representation for all levels of the state's public education system.

As counsel for eight state-level education boards and more than twenty-five educational institutions, the Attorney General's Office provides complete client legal services and appears in court and administrative proceedings on their behalf. The Office also investigates complaints against teachers on behalf of the Board of Teaching and responds to hundreds of calls and letters about education matters from local school officials and the general public.

Significant actions in the last biennium include:

1. Teachers' Lawsuit — The Office successfully defended, in federal district court, legislation that permits junior and senior public high school students to attend public and private colleges. The Minnesota Federation of Teachers claimed that the statute violated the U.S. Constitution because some of the private colleges are church-related. When the district court determined that the plaintiffs are not entitled to sue, they appealed to the federal appeals court.

2. Day Care Funds — The Attorney General sued in Department of Education v. Hennepin County Family Day Care Association to recover unspent federal

funds. The association was in the process of dissolving without having properly spent the federal funds it had received from the Minnesota Department of Education under the Child Care Food Program. The Office successfully attached \$14,000 of the association's assets and obtained an additional \$25,000 as restitution for the Department from a prior director of the association.

3. Equal Transportation — In state district court the St. Paul school district successfully defended a challenge to its refusal to provide transportation to students who lived in St. Paul but attended private school in another district. The case was appealed to the state Court of Appeals, challenging the constitutionality of the state's equal transportation statute. The Attorney General intervened and successfully protected the constitutionality of the statute at both the Court of Appeals and the state Supreme Court.

4. Sexual Contact — The teaching license of a public school elementary teacher who had sexual contact with an adolescent pupil was revoked during a proceeding in which the Attorney General represented the Board of Teaching. As a result, the teacher cannot obtain another license unless he is able to demonstrate to the Board his fitness to teach.

## Human Services

Attorney General Humphrey represents the diverse state Department of Human Services in all areas, including litigation, client advice and rulemaking. Staff attorneys become involved in areas such as mental health, public assistance and Medicaid, as well as issues relating to the licensing of residential and day care facilities. The Office also is responsible for state hospital collections, child and adult protective services, federal disallowances, child support enforcement and all state nursing homes and regional treatment centers.

Cases and issues in the last biennium include:

1. Class Action Lawsuit — The Attorney General successfully negotiated an end to a class action suit initiated in 1972 on behalf of children with mental retardation in state hospitals. The settlement allows for an orderly, individual-specific transition from institutions to community-based care.

2. Patient Medication Hearings — In response to a 1988 Minnesota Supreme Court decision, the Office began initiating court hearings for hundreds of state hospital patients to obtain judicial review on whether they should receive neuroleptic medications. Many patients require such medication in order to successfully receive other therapies and to reduce aggressive or assaultive behavior.

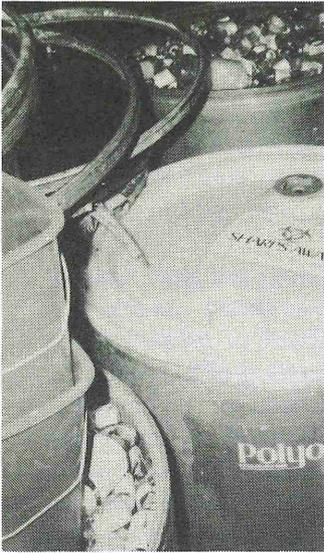
3. AFDC Lawsuit — The Attorney General successfully litigated an Aid to Families with Dependent Children class action lawsuit before the U.S. Supreme Court. The recipients claimed they were entitled to advance notice of a change in

federal law, which would have delayed the effective date of the change. The case had national significance and Minnesota was joined by twenty-eight other states and the federal government in the lawsuit.

4. Long-Term Care Rate Appeals Backlog — The Attorney General created a special unit of attorneys in 1987 to address the backlog of long-term care rate appeals. The unit assisted in developing an expedited appeals system which is designed to decrease the number and complexity of appeals. In the past year, the Attorney General has handled dozens of cases in the contested case setting, as well as appellate review of challenged decisions, producing millions of dollars in savings and recoveries.

5. Federal Disallowances — Successful challenges were made by the Attorney General to two disallowances within federal programs by the U.S. Department of Health and Human Services. The challenges, brought before the U.S. Grant Appeals Board, resulted in paybacks to the state's Medicaid and AFDC programs of nearly \$1 million.

6. License Enforcement — The Attorney General successfully litigated or negotiated the closing of several facilities where children or vulnerable adults were mistreated. A child care center was shut down because of illegal use of physical punishment and poor staffing and physical plant conditions. A facility for persons with mental retardation was closed for similar reasons as well as for neglecting its residents. In a third case, the owner/operator of a facility for persons with mental retardation was permanently deprived of holding a license because he sexually abused a resident.



## Health

The Attorney General takes legal actions to protect the public health as counsel to the Department of Health, which oversees hospitals, nursing homes, medical laboratories and health maintenance organizations.

In addition to representing the Department, the Office responds to the needs of the state's thirteen health licensing boards, which take legal action against health care providers for such matters as incompetency, drug and alcohol abuse and abuse of patients. Complaints against licensed health professionals are on the increase, from

250 in 1982 to 647 in 1986 and 1,218 in 1988.

Staff attorneys also are involved in handling a wide range of legal questions and issues arising from the AIDS disease, many of which find no exact prior parallel in the field of public health law.

Actions in the last biennium include:

1. HMO Issues — Staff attorneys assisted in mediating a dispute between a health maintenance organization (HMO) and its dissatisfied doctors and dealt with prereceivership matters relating to two financially failing HMOs. The Attorney General represented the Department of Health in a proceeding to prohibit an arbitration award from taking effect. The award would have jeopardized the financial viability of the HMO in order to preserve the health services received by enrollees.

2. Board of Medical Examiners — Following an investigation by the Attorney General's Office, the Board of Medical Examiners suspended a physician for repeated use of cocaine and failure to disclose that he had used marijuana. Reinstatement was conditioned upon his maintaining sobriety, attending support sessions and submitting to random testing for drug use. The physician was unable to abstain from drug use and was suspended indefinitely in April 1988. As a sidelight to this



*The Attorney General took legal action to compel the proper disposal of infectious and hazardous medical waste, both a health and environmental threat.*

action, the physician's associates also were disciplined and were assessed significant fines for their failure to report their colleague's drug use, as required by the Medical Practice Act.

In another action by the Board, a doctor's license was revoked for having sexual contact with a number of female patients.

3. Board of Psychology — Following another staff investigation, the Board of Psychology restricted and placed conditions on a psychologist's license because of his failure to report incidents of child sexual abuse and failure to obtain written consent before releasing private information about his clients. One such incident involved a client (an 82-year-old grandfather with a history of sexually abusing children) who had sexually molested his 11-year-old handicapped granddaughter shortly before his first session with the psychologist. The Board, and later the Court of Appeals, rejected the psychologist's argument that the law on child abuse required him to report only on-going abuse.

4. AIDS Issues — Identified as the public health problem of the century by federal and state health officials, AIDS presents numerous legal issues for which there is little direction from the courts.

The Office represented the Commissioner of Health in obtaining court orders requiring a prostitute infected with AIDS to continue with chemical dependency rehabilitation, to contact health officials regularly and to refrain from engaging in activities which could transmit the virus. Under the new non-compliant carrier law, the Office pre-

pared for the Commissioner the directive served on a female prostitute who allegedly misrepresented her AIDS status to a potential client. The directive requires her to inform all potential clients of the fact that she has AIDS.

The Attorney General regularly is engaged in advising state agencies and attorneys for local units of government on such issues as confidentiality (as it relates to government, health care workers and adoption agencies), duty-to-warn in the case of an unsuspecting spouse and circumstances and mechanisms for testing to determine the presence of antibodies to the AIDS virus.

The Office provides advice on methods for stopping scams which pander to people's fear of contracting the disease, regulating and closing bathhouses and adult book stores, prohibiting discrimination against AIDS carriers and ethical issues relating to the obligation of professionals to treat people with AIDS. In one instance, staff attorneys represented the Board of Medical Examiners and the Department of Health in determining the obligation of a physician to report to the Board his patient, a physician with AIDS who continued to engage in invasive medical procedures. The physician with AIDS no longer is engaging in procedures which might endanger patients.

## PUBLIC RESOURCES

Protection of the environment has continued to be a high priority for Attorney General Humphrey. The Office devoted a great deal of time and effort in the last biennium to ensure that Minnesota's tough environmental laws are enforced and pristine natural resources are protected.

The Attorney General challenged the federal government's criteria for selecting a site for storage of nuclear wastes and the First U.S. Circuit Court of Appeals agreed that the process was flawed. The state's most-polluted site, the Twin Cities Army Ammunition Plant in Arden Hills, is being cleaned up following a landmark agreement negotiated by Attorney General Humphrey and staff attorneys. The Office has negotiated settlements for almost fifty other Superfund sites around the state, with cleanups valued at more than \$100 million and has handled complex Indian hunting and fishing rights litigation.

### Environmental Protection

As the counsel for a variety of state agencies, the Attorney General enforces laws and regulations that relate to pollution, as well as noise abatement and resource recovery.

In addition, the Attorney General develops, proposes and supports legislation to protect the environment. The Office has been successful in seeking passage of bills to make it a felony to violate state hazardous waste rules, to require asbestos removal contractors to train their workers and obtain licenses and to require all transporters of hazardous waste to get licenses and visibly identify vehicles hauling such waste.

In representing the state, staff attorneys have become involved in a wide range of efforts to develop improved methods for managing solid, industrial and hazardous waste. The Office also represents the Hazardous Substance Injury Compensation Board, which compensates persons who suffer

personal injury or property damages as a result of exposure to hazardous waste.

Among important actions by the Attorney General in the last biennium:

1. Nuclear Waste Issues — The Attorney General was successful in a lawsuit brought against the U.S. Environmental Protection Agency (EPA) challenging regulations which did not adequately establish ground water protection criteria to be used in selecting a site for a nuclear waste repository. The First Circuit Court of Appeals vacated the standards and ordered the federal agency to reopen its rulemaking process to correct defects in the standards. Subsequent to this action, Congress adopted amendments to its Nuclear Waste Policy Act which eliminated Minnesota as a candidate for a nuclear waste site.

2. Twin Cities Army Ammunition Plant — Following two years of negotiations, an agreement was entered into in July 1987 by the state, the EPA and the U.S. Army for cleanup of groundwater contamination at the Twin Cities Army Ammunition Plant. The agreement was achieved only after Attorney General Humphrey filed a notice of intent to sue

the Army and obtained a special \$3 million legislative appropriation to support the litigation. Praised by the EPA as a national model for handling federal government hazardous waste, the agreement is the first of its kind under the 1986 amendments to the federal Superfund law. The result will be the cleanup of two contaminated areas that have degraded private and municipal water wells in a twenty-five square mile area southwest of the Army facility in Arden Hills.

**3. Infectious Waste** — After an investigation turned up questions about practices of Ehrlichmann Energy Corpo-

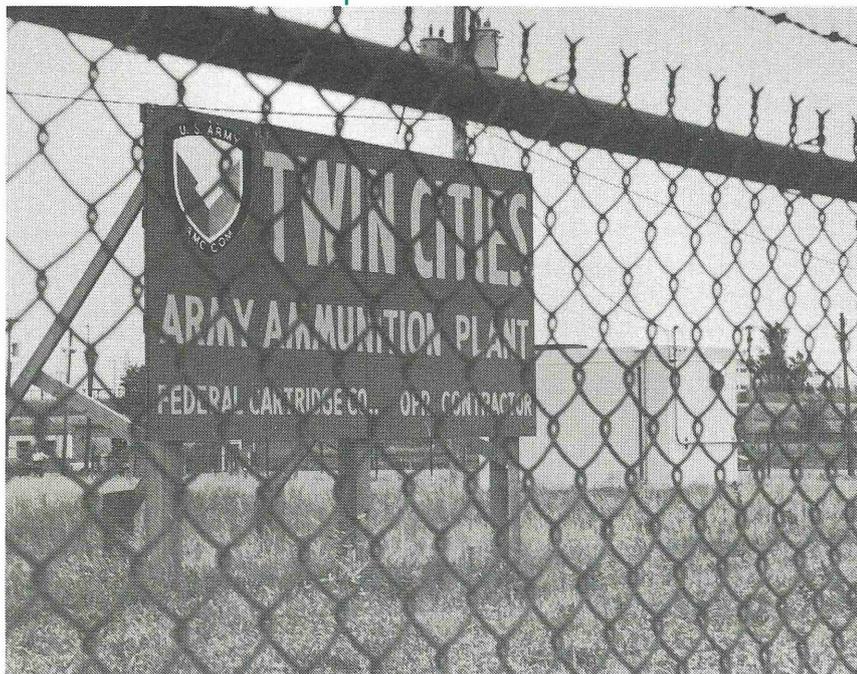
ration, Alexandria, Minn., which claimed to be a recycler of medical waste, the Attorney General's Office obtained a temporary restraining order from district court. The order restrained the company from receiving medical waste without prior approval of the Minnesota Pollution Control Agency (PCA) and the Minnesota Health Department.

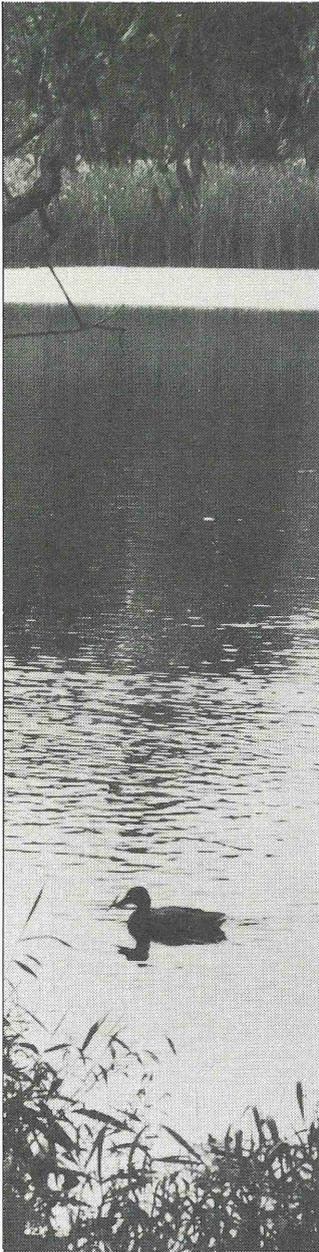
**4. Andersen Window Corporation**

— In 1987 the Attorney General's Office assisted the PCA in negotiating a settlement of an enforcement action against Andersen Window Corporation. The agency alleged that the company improperly incinerated hazardous waste, improperly disposed of hazardous waste ash, failed to meet record-keeping requirements and violated other agency rules. Under the terms of the settlement, the company paid a civil penalty of \$145,000, the largest such penalty up to that time in the state for violations of hazardous waste laws. Andersen Window also agreed to cease burning hazardous waste at its facility until it complied with all applicable pollution control laws.

**5. Clean Water Act Deadline**

**Compliance** — Many municipalities in Minnesota (and other states) were unable to meet the July 1, 1988, deadline for compliance with the federal Clean Water Act provisions relating to effluent limitations for wastewater treatment. The EPA adopted a strategy to make non-complying municipalities subject to judicially enforceable treatment facility construction schedules. The Attorney General's Office has been assisting the state PCA in negotiating consent decrees with municipalities which are subject to the EPA policy. More than twenty such decrees, containing mutually agreeable construction schedules, have been filed in the applicable district courts.





## Natural Resources Management

In a state so heavily endowed with natural resources, much effort goes into their effective management and protection. The Attorney General serves a wide variety of state agencies and the public in enforcing laws that relate to the state's waters, forests, minerals, wildlife, parks and trails. Staff attorneys are involved in environmental law, hunting and fishing regulations, Indian law, land use and water regulation.

In representing the Department of Natural Resources (DNR), the Office also assists in drafting rules and implementing the state's extensive land acquisition program.

Significant legal actions in the last biennium include:

### 1. Public Waters Inventory System

— In 1987 the state's inventory of public waters and wetlands was challenged in administrative hearings and in litigation at the state Court of Appeals and Supreme Court. The challenges related to the constitutionality of the inventory process, a ten-year effort to develop a list of 29,000 waters and wetlands subject to state regulation. The inventory and its process were mandated by the 1976 Legislature.

The Attorney General's Office defended the statutory process and the DNR's implementation efforts in all proceedings. The state Supreme Court ultimately upheld and endorsed the constitutionality of the process, saving the state millions of dollars in costs that would have been necessitated by a new inventory.

### 2. Indian Hunting and Fishing

Rights — The Grand Portage Band of Chippewa Indians in 1985 started litigation against the state to gain recognition of unlimited hunting and fishing rights in the Arrowhead Region for three Chippewa bands. The Attorney General's Office, at the request of the Governor, state legislators from the affected area and the DNR, took the lead in negotiating a settlement with the Chippewa bands. A mutually agreeable settlement subsequently was reached and an agreement

was signed by the state and the Indian bands and ratified by the Legislature, then adopted by court order. The negotiated settlement protects the state's resources, provides benefits to the Chippewa bands and avoids acrimonious litigation.

### 3. New Steel-Making Technology

— The Office is working closely with the Governor and the DNR on a project that could be used to spur the growth of new industry in economically depressed northern Minnesota. Attorneys are assisting in obtaining federal demonstration grants for a new steel-making technology and the start of a pilot project, as well as providing advice on federal administrative processes, financing alternatives and drafting of legislation.

### 4. White Earth Land Claims

— A major Indian land claims controversy has clouded the title to over 100,000 acres of land in Becker, Clearwater and Mahnommen counties since the late 1970s. Attorney General Humphrey led the effort to resolve the land controversy through settlement legislation passed by Congress and the Minnesota Legislature in 1986.

The constitutionality of the legislation was challenged by a lawsuit in federal court in which the Attorney General intervened on behalf of the state. Staff attorneys argued the case before the U.S. District Court, which issued a judgment upholding the legislation; staff attorneys now are representing the state in the appeal.

### 5. Reinvest in Minnesota

— The Reinvest in Minnesota program, established by the Legislature in 1986, has been hailed as one of the most significant natural resource/agricultural programs in the country in recent years. The Attorney General's Office has provided legal assistance to both the DNR and the Department of Agriculture in implementing the program, including providing assistance in the areas of training, statutory interpretation, drafting of rules, real estate law advice and land title examination.

## BUSINESS REGULATION

The Attorney General provides legal services to agencies charged with regulating business activity in Minnesota, enforcing a wide variety of laws. In the last biennium, this responsibility involved the Office in a variety of issues relating to hostile corporate takeovers.

The Office handles litigation for the Department of Human Rights in cases in which citizens believe they have been victims of discrimination. In large part, these cases consist of race, sex, employment and disability discrimination, with age discrimination becoming an increasingly frequent complaint.

The Attorney General assists in protecting workers from hazards in the workplace and, in its role as counsel to the Special Compensation Fund, the Office provided legal assistance in a pivotal case which has the potential to save taxpayers millions of dollars. Utility customers save millions of dollars annually as a direct result of the Attorney General's representation of the public's interest in rate cases.

### Human Rights



Attorney General Humphrey represents the Department of Human Rights in protecting the state's citizens from all forms of discrimination prohibited by the Minnesota Human Rights Act. The Office seeks damages and sanctions against a recurrence of discriminatory practices, primarily in the areas of employment, race, sex, age and disability discrimination.

Frequently, monetary awards recovered for persons who have suffered discrimination are in the form of back pay, sometimes with interest. Persons who bring discrimination suits also may be awarded punitive damages and compensation for mental anguish and suffering. The state often is awarded civil fines and legal costs.

Actions by the Office in the previous biennium include:

**1. Sexual Harassment** — A female employee of the K-Mart discount chain won significant personal relief in a private sexual harassment action and the court ordered a substantial civil penalty in favor of the state. However, the parties settled without making any provision for

the civil penalty or injunctive measures to ensure that the discrimination did not recur. The Attorney General intervened on his own behalf and for the Department of Human Rights, in State v. K-Mart Corp., gaining a civil penalty of \$94,000. K-Mart was ordered to establish anti-harassment procedures, including a grievance process and training for supervisors and managers.

**2. Disability Discrimination** — An employee of a Twin Cities bottling firm who charged that he had been discriminated against for a perceived disability received a settlement of \$23,500. The Attorney General achieved the award without the need for litigation for the employee, who had driven a truck for ten years for the bottling company but was fired after a physical examination turned up a congenital spinal defect.

**3. Pregnancy Case** — An employee fired by a Twin Cities towing company because she was pregnant was awarded \$6,850 in damages, which included back pay and compensation for mental anguish and suffering. The state also was awarded a civil penalty in the amount of \$3,600.

4. Marital Status Case — In a case of marital status discrimination in Austin, Minn., an Administrative Law Judge not only made a monetary award to a former employee but ordered her employer to offer her a job. In State v. Mower County Social Services, the judge found that a temporary employee who'd ranked first on a Civil Service list for a permanent position was not hired because her supervisor, who influenced the hiring decision, disapproved of the fact that she was pregnant and unmarried. The woman was awarded nearly \$40,000 in back pay and damages and the agency was ordered to hire her. Although the case is being appealed, the judge ordered that back pay accrue from the hearing date (in February 1988) until she actually is on the payroll.

5. Racial Discrimination — The Attorney General obtained a court order requiring a computer company to establish an affirmative action plan to remedy discriminatory hiring practices. Individual job applicants who had suffered both from the pattern and practice of racial discrimination were awarded \$42,000.

6. Retaliation Recovery — An instance of retaliation by an employer for a previously filed charge was involved in State v. Mille Lacs Electric Coop, Inc. In addition to obtaining injunctive relief prohibiting such practices, the Office recovered \$48,000 in monetary relief.

7. Rotary Case — Attorney General Humphrey submitted an amicus curiae (friend of the court) brief before the U.S. Supreme Court in support of women who had been denied membership in the Rotary organization. The Supreme Court finding in the women's favor was very similar to the landmark Jaycees case championed by the Attorney General in 1984.

8. Housing Discrimination — A woman who was the victim of racial discrimination in her search for housing was awarded \$25,000. The state received a civil penalty and compensation for legal costs in excess of \$14,000.

9. Gender Bias — The Attorney General obtained an award of \$116,000 for female corrections officers who had been discriminated against, in State v. Department of Corrections.

## Commerce

The Attorney General provides legal services to the state Department of Commerce, which regulates banking, insurance, securities, real estate, franchises and subdivided land, including numerous matters relating to the enforcement of Minnesota laws.

For example, during the biennium, staff lawyers were involved in approximately 260 different matters that resulted in disciplinary action being taken against persons licensed by the Department for violation of state laws. In addition, the Division lawyers handled approximately 200 cease and desist actions which mandated compliance with state legislation.

The enforcement cases involve broad-ranging violations, such as insider-trading in securities transactions, outright securities scams, misrepresentation in the sale of insurance, securities and real estate, and failure to comply with the state's registration and filing statutes. Approximately \$61,000 in civil penalties was collected by the Department as part of this enforcement activity.

Other actions during the biennium include:

1. Corporate Takeovers — The Attorney General's Office has substantial involvement in corporate takeover

actions, ranging from providing legal advice on state laws to defending the constitutionality of the legislation.

During the 1987 Special Session of the Legislature, the Attorney General advised the Governor and Legislature on the proposed takeover legislation. Under a tight deadline, the Office prepared a legal opinion for the Governor on the legislation's constitutionality, testified before a Senate committee and wrote amendments to the proposed laws.

2. Takeover Legislation — The Office also filed an amicus curiae (friend of the court) brief regarding corporate takeover action in December 1986 in the U.S. Supreme Court in a case entitled CTS Corporation v. Dynamics Corporation of America. The case concerned an Indiana takeover law which was substantially similar to Minnesota's legislation. Once the Supreme Court concluded that the Indiana law was constitutional, it was cited as the legal basis for much of the takeover legislation passed in Minnesota in 1987.

3. Securities Matters — Staff attorneys often are required to take expedited action to protect the public interest, as in State v. Connors. In that case, on a few hours notice, attorneys prepared the necessary legal documents to freeze the assets of a bank executive and of his affiliated companies. The documents alleged that the bank executive had engaged in securities fraud by soliciting millions of dollars from various persons but failing to deposit the money in the bank. Quick action by the Office froze \$3 million in funds intended for deposit and other assets, which could not be withdrawn or otherwise taken by the executive. The funds then were available

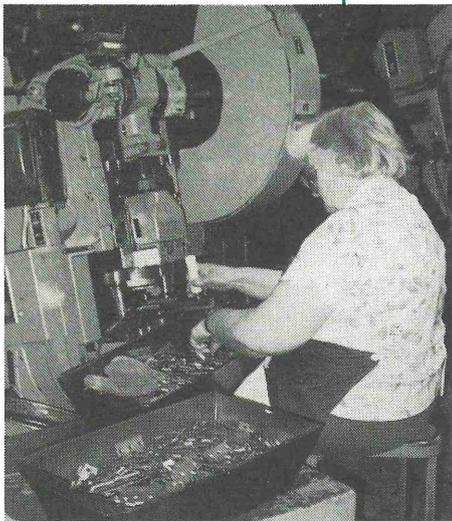
for payment to those persons who thought they had deposited money in the executive's bank.

4. Insurance Payments — During the biennium, the Office monitored and worked to assure that final payments were made to the approximately 2,700 Minnesotans who had purchased insurance from two subsidiaries of the bankrupt Baldwin-United Corporation.

Action by the Office led to an agreement by the Minnesota Life and Health Guaranty Association to guarantee the return of the Minnesotans' principal plus a favorable rate of interest. The payments were made to Minnesota Baldwin-United policyholders in early 1988 and totalled approximately \$1.5 million.

5. Enforcement Action — In an enforcement action that had nationwide impact, Caucus Distributors, Inc. v. Commissioner of Commerce, the Office successfully defended a challenge to a cease and desist order issued against a New York-based organization that had sold notes in Minnesota and throughout the United States. The Minnesota Court of Appeals upheld the Department's determination that the notes were securities and therefore required to be registered with the Department prior to being offered or sold in Minnesota. This decision established a valuable precedent not only in Minnesota, but also for other states that had brought similar actions against the same defendants.

## Protection of Workers



The Attorney General is responsible for enforcement and litigation in the areas of workers' compensation, the Minnesota Occupational Safety and Health Act (OSHA) and state minimum wage and overtime provisions. The Office provides legal representation for the state Department of Labor and Industry before administrative tribunals and in court.

Actions in the last biennium include:

1. OSHA Cases — The Office has provided legal representation for the OSHA division of the Department of Labor and Industry in more than 400 contested cases during the last biennium, resulting in the collection of numerous civil fines and the elimination of hundreds of workplace hazards.

2. Retaliatory Discharge — The Office assisted the OSHA division in protecting a worker from retaliatory dis-

charge for filing a safety complaint, in Bohn v. Cedarbrook Engineering Company. The Minnesota Supreme Court upheld a Minnesota Court of Appeals determination awarding approximately \$15,000 in back pay to a former employee fired by Cedarbrook Engineering for demonstrating the existence of a particular hazard to a safety investigator.

The appeals court determined that the activity engaged in by the employee was protected by OSHA provisions as long as it did not present an immediate hazard to co-workers or the inspector. The case is the first of its kind nationwide to determine that the filing of a safety and health complaint may include the actual demonstration of a safety hazard.

3. Workers' Compensation — In providing legal assistance to the Special Compensation Fund, which pays out over \$90 million a year in workers' compensation benefits, the Attorney General successfully defended the Fund in Wesley McBride v. Leon Joyce Blacktop, et al. This case resolved a difficult question of statutory interpretation of legislative intent when the Minnesota Supreme Court determined once and for all that the Special Compensation Fund need not pay supplementary workers' compensation benefits to employees whose entitlement to total temporary disability benefits had ceased. The Fund ultimately may save an estimated \$30 million because of this determination.

## Public Utility Users

The Attorney General represents the Department of Public Service in litigation involving the regulation of telephone, gas and electric utilities in the state. Staff attorneys, often in opposition to large companies, appear before the Public Utilities Commission, federal regulatory agencies and state and federal courts to ensure that the public's interest is served.

Significant actions in the last biennium include:

1. Northern States Power Company Rate Case — The Office intervened in a \$99 million rate increase sought by Northern States Power Company. The majority of issues in the case were resolved through a settlement and stipulation which resulted in lowering the utility's requested rate increase by about \$25 million. At the recommendation of the Administrative Law Judge assigned to the case, the Commission accepted the settlement and most of the stipulations.

2. Minnesota Power and Light Company — The Attorney General's Office represented the Department in a contested case hearing with the Minnesota Power and Light Company. The case involved the first request for a rate increase by Minnesota Power since 1981. The major issue at the three-week long hearing was whether Minnesota Power had excess capacity and whether it was imprudent in failing to sell the excess. Based in part on the efforts of staff attorneys, the Commission determined that the utility should reduce its rates by \$8.3 million rather than be granted a \$4.5 million rate increase.

3. Northwestern Bell Telephone Company Investigation — Staff attorneys represented the Department in a major

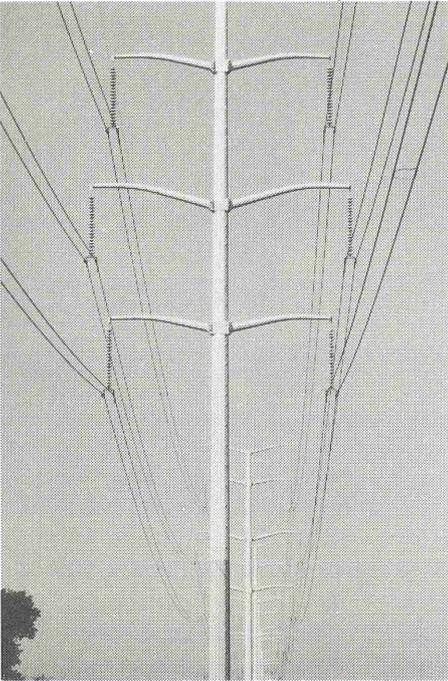
investigation of the earnings of Northwestern Bell Telephone Company. The result, after a contested case hearing, was a settlement which reduced the utility's telephone rates by \$24.5 million. The Office was instrumental both in negotiating the settlement and obtaining its approval from the Commission.

4. Telephone Company Regulation — The Attorney General monitors telephone companies' filings with the Commission for compliance with regulations passed by the Legislature in 1987. The legislation, sponsored by the Attorney General's Office, reduces the amount of regulation on rate-setting in competitive situations, but allows the Commission to set rates where the market fails to do so.

Staff attorneys also are involved in a complaint procedure against unauthorized providers of operator services.

5. Federal Energy Regulatory Commission — In representing the Department's Energy Intervention Office before the Federal Energy Regulatory Commission, the Attorney General has participated in the process of writing new rules governing the development and regulation of alternative energy sources. If adopted, the proposed rules could result in a major restructuring of the nation's energy program. The Attorney General's Office also has participated in the drafting of comments expressing the concern of the Department and the Commission that federal rulemaking could harm Minnesota's quest for a secure and healthy energy future.

## Utility Regulation



The Attorney General acts as counsel to the Public Utilities Commission, involving the Office in cases that have the potential to save the public millions of dollars in utility rate fees.

Staff attorneys regularly advise on matters of administrative, telecommunications, utilities, railroad and motor carrier law. They also represent the Commission before the appeals courts.

Specific actions taken in the last biennium include:

**1. Northern States Power Electric Rate Case** — The Office advised the Commission regarding its authority to reduce a rate increase for Northern States Power below the \$92 million sought by the

utility and the \$37 million recommended by the Administrative Law Judge. The Attorney General subsequently defended the Commission's action before the Minnesota Supreme Court. The court's decision clearly established the Commission's authority to reach its own judgment on utility rates and not merely rely on expert witnesses' opinions of what are just and reasonable rates.

**2. Northwestern Bell Telephone Rate Case** — Responding to the agency's concern that Northwestern Bell Telephone's profits were excessive, staff attorneys advised the Commission on possible procedures for reducing the utility's rates. By adopting the recommended procedure that placed the burden of developing cost data on the telephone company, the Commission created an environment conducive to a settlement which reduced rates by \$24 million.

**3. Federal Tax Reform Act Reductions** — To assist the Commission in directing benefits of the 1986 Federal Tax Reform Act to ratepayers, the Office advised that the most effective means would be through the rulemaking process, by ordering adjustments in utility rates. Working quickly, the Attorney General drafted rule language and negotiated amendments that allowed an early effective date for the rule while assuring all utilities' rates properly reflected the act's tax savings. As a result, rates for seventeen utilities and telephone companies were reduced by more than \$30 million.

## GOVERNMENT SERVICES

The Attorney General represents a wide variety of state agencies, boards and commissions in protecting the public's interests. The Office performs the little-known but important function of answering thousands of inquiries each year from citizens and elected officials relating to data practices, purchasing, public finance, tax collections, personal injury and property damage and the state building code. Such responsibilities are the nuts and bolts of state government and are essential to the effective and efficient operation of the business of government.

The Attorney General plays an aggressive role in keeping drunk drivers and overweight vehicles off state roadways. A key responsibility is assisting the state Department of Transportation as it completes construction of the federal interstate system.

### Public Finance

The Attorney General provides legal representation to the Departments of Finance, Administration, Trade and Economic Development and the Housing Finance Agency. Attorneys also represent a variety of state boards, including the State Board of Investment, the Client Security Board, the Ethical Practices Board and the Amateur Sports Commission.

Such day-to-day representation requires a heavy emphasis on preventive law to avoid or resolve problems before they become formal disputes. This is a low-visibility but crucial role, involving attorneys in daily requests for advice, the drafting of hundreds of legal documents and review of thousands of contracts.

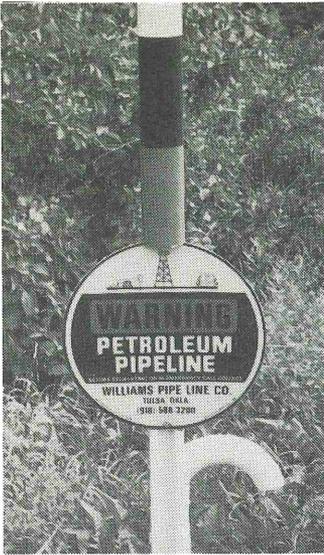
The Attorney General's Office also serves the public by responding to thousands of inquiries each year from citizens and local government officials. These requests for information deal with government data practices, public purchasing, public financing, corporations, garnishments, administrative rulemaking and the building code.

Matters in which attorneys have played crucial roles in the last two years include:

1. Farm Assistance — The recently enacted Beginning Farmer Program allows the Rural Finance Administration to participate in loans to beginning farmers on terms which otherwise would be unavailable. Staff attorneys assisted in drafting the agreements with Farm Credit Services and negotiating with the Minnesota Bankers Association to encourage its members to participate in the program.

2. Real Estate Acquisitions — The Office has been instrumental in complicated and lengthy real estate acquisitions for such projects as the Minnesota History Center, the Red Lake Nursing Home and the Isanti County/Cambridge Regional Treatment Center.

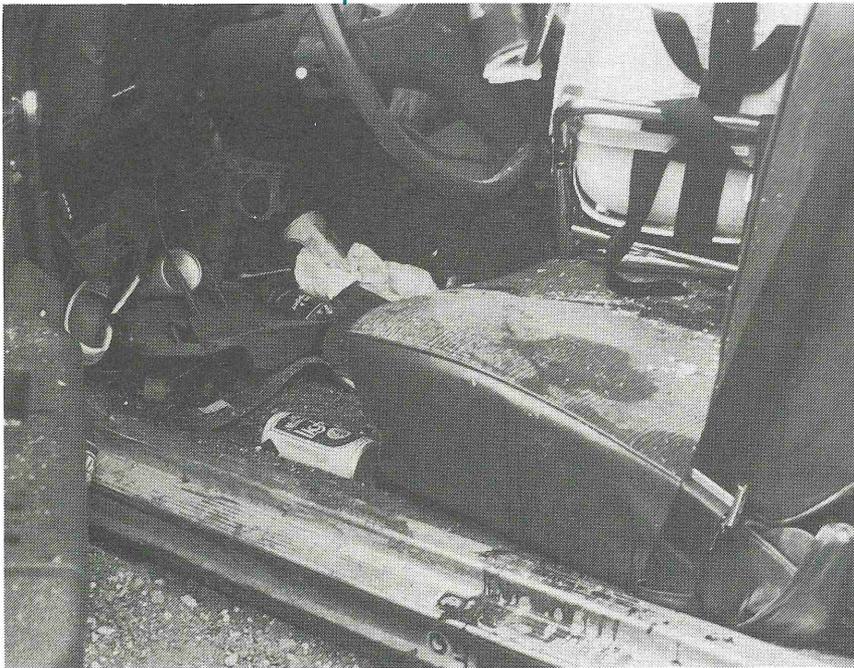
3. Ethical Practices Board — The Attorney General's Office assists the Ethical Practices Board in enforcing the ethics in government act. In one case, the National Rifle Association (NRA) has for years been trying to vacate a federal court order requiring it to file disclosure reports with the Board relating to its lobbying and political activities. The NRA has filed motions in federal district court, the Eighth Circuit Court of Appeals and the U.S. Supreme Court attempting to vacate the four-year-old decision and has lost each round. The Eighth Circuit Court of Appeals recently denied the NRA's petition to rehear the case.



## Public Safety

An important public safety issue for Attorney General Humphrey is assisting in the battle to keep drunk drivers off the road. The Office appears on behalf of the Public Safety Commissioner at thousands of implied consent proceedings each year and has successfully pushed to have driving-while-intoxicated (DWI) law provisions extended to cover operators of all kinds of vehicles. Prosecution of DWI cases combined with the state's implied consent procedures have led to a noticeable reduction in Minnesota traffic fatalities.

The Attorney General plays a



*The aftermath of an accident involving an intoxicated driver.*

significant role in the enforcement of laws relating to highway safety, such as the overweight vehicle law. The Office becomes involved in other safety issues through its representation of the Department of Public Safety, particularly the Office of Pipeline Safety and Emergency Services, the State Fire Marshal and the Bureau of Criminal Apprehension, the State Patrol and the division of Driver and Vehicle Services.

Members of the public who have been victimized by crime are assisted by staff attorneys working with the Crime Victims and Witness Advisory Council, the Crime Victims Ombudsman and the Crime Victims Reparations Board. The Office also represents the Charitable Gambling Control Board and the Minnesota Racing Commission.

Significant actions during the last biennium include:

**1. Implied Consent** — The Attorney General continues to play an integral role in the enforcement of the state's drunk driving laws, representing the Commissioner of Public Safety in more than 4,000 implied consent proceedings during the last two years. Aggressive action by the Attorney General helped make 1987 the year with the lowest highway death rate in decades.

Staff attorneys also drafted and provided testimony regarding legislation aimed at persons who operate boats while drunk. As a direct result of this initiative, the Legislature revised the boating-while-intoxicated law and enacted laws prohibiting the operation of all-terrain vehicles and snowmobiles while under the influence of alcohol.

**2. Overweight Vehicles** — The Office helps protect the state's enormous investment in its roadways and helps reduce the safety hazard posed by dangerously overloaded vehicles by assisting in enforcement of the overweight vehicle law. Some \$1.5 million in civil penalties has been recovered since 1982 from operators of overweight vehicles in Minnesota.

**3. Pipeline Safety** — The Attorney General's Office was actively involved in the development and enactment of legislation governing pipeline safety and played an important role in developing the Office of Pipeline Safety within the

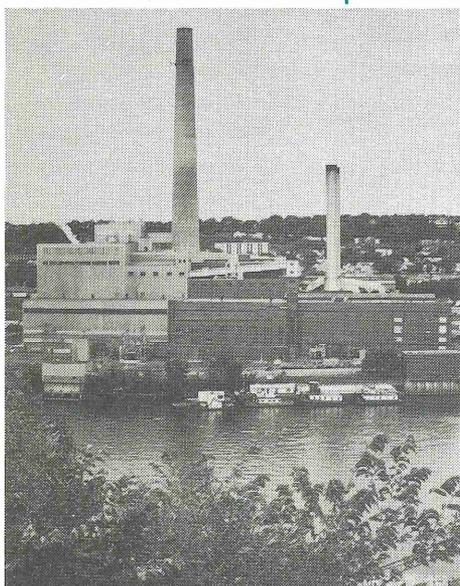
Department. The Office played a key role in the creation of the One-Call Notification System, a central clearinghouse for information on the location of potentially dangerous utility lines.

**4. Private Detective Licensing** — Important assistance was provided by the Attorney General in developing a comprehensive new statute governing the licensing and conduct of private detectives and security agents. The new law gives the Board of Private Detectives and Protective Agent Services increased

authority over a growing trade and its practitioners.

**5. Minnesota Racing Commission** — The Attorney General provided substantial legal assistance to the Minnesota Racing Commission in the selection and licensing of Minnesota Downs, the state's second race track. Legal representation of the Commission in areas of rulemaking and legislation and at disciplinary hearings has contributed to the Commission's efforts to ensure the integrity of the racing industry in Minnesota.

## Residential/Small Business Utilities



Attorney General Humphrey, by statute, represents electric, gas and telephone ratepayers, both residential and small business, in utility rate-increase cases. Actions taken by the Office resulted in savings of \$204.7 million for ratepayers during the biennium.

Noteworthy activity by the Attorney General during the biennium includes:

**1. Reopening the Northwestern Bell Case** — One of the more important actions taken by Attorney General Humphrey during the last two years resulted in the Public Utilities Commission reopening the 1983 Northwestern Bell rate case. To support the request to reopen the case, the Attorney General demonstrated that Northwestern Bell had improperly influenced the outcome by entertaining and buying meals for two commissioners while lobbying the Commission for a large rate

increase. The reopening of the case has resulted in annual savings of \$10 million for ratepayers.

In addition, the Office is pursuing an action in District Court to recover an additional \$40 million in other damages from Northwestern Bell. Attorney General Humphrey also made recommendations, many of which were adopted by the Legislature, to set guidelines to help Commissioners avoid conflict-of-interest situations.

**2. Blocking Charge-Per-Call Use** — A complaint filed by the Attorney General with the Public Utilities Commission has resulted in restrictions on the offering of 1+976 services, such as dial-a-joke, which provide information at a per-minute charge for each call. After receiving many complaints of unauthorized telephone charges for calls made by children and emotionally handicapped adults, the Attorney General secured an order requiring the free blocking of such calls at the request of the customer.

**3. Federal Tax Reform Act** — The Office filed a complaint against all utilities to require them to pass on to ratepayers the savings the utilities received under the Federal Tax Reform Act of 1986, resulting in savings to state ratepayers of \$27.5 million.

## Tax Litigation

The Attorney General's Office represents the Department of Revenue in a significant amount of tax litigation, taking on approximately 350 new cases each year. The Office provides legal counsel to the Department in the interpretation of statutes and assists in the administration and collection of state taxes, including income, corporate franchise, sales, occupation, taconite production, gross earnings, estate, petroleum and tobacco taxes. The Attorney General also responds to numerous inquiries from citizens on tax matters.

The following are examples of the many lawsuits in which the Attorney General's Office appeared for the Department during the biennium:

1. Homestead Tax Rates — The Attorney General participated in the Minnesota Supreme Court case of Lund v. Hennepin County as amicus curiae (friend of the court) to successfully defend the Legislature's establishment of lower tax rates on homestead residential property as compared with non-homestead residential property.

2. Underreported Taxes — Staff attorneys successfully defended in Tax Court an assessment by the Commissioner of Revenue of sales tax, interest and a 50 percent fraud penalty against a Dairy Queen owner who had underreported sales and personal income tax.

3. Corporate Franchise Tax — In the Westinghouse Electric Corporation case, the Attorney General successfully defended in the Minnesota Supreme Court the computation method enacted by the Legislature for calculating the corporate franchise tax.

4. U.S. Tax Court — In the Tarutis case, the Office established in the Minnesota Supreme Court the principle that a taxpayer who has tried and lost a tax case in U.S. Tax Court may not put Minnesota taxpayers to the expense of another trial on the same issue in the Minnesota Tax Court.

5. Bank Claims — The Attorney General currently is defending in District Court the claims by a number of banks doing business in Minnesota for tax refunds estimated at \$150 million. The banks claim that the state may not tax them on interest on their U.S. bonds.

6. Contract Claims — Staff attorneys now are working on the Anderson case, in which a group of taxpayers claim they are contractually entitled to a tax exemption which the Legislature repealed in 1985. The exemption was eliminated when the Legislature broadened the state's tax base by removing a number of exemptions, credits and deductions that favored specific groups. Defeating the claims of these plaintiffs will give the Legislature flexibility in the future to make changes which lower tax rates without concern for contract claims by taxpayers who benefit from the status quo.

## Tort Claims

When people sue the state claiming it caused personal injury or property damage, the Attorney General handles the defense. The Office is involved in litigating or settling hundreds of such claims every year.

The task is a formidable one, since at the same time that the courts are narrowing the state's defenses in such lawsuits, the Legislature is expanding the population of individuals who must be defended and indemnified, adding, in the last biennium, public defenders and guardians ad litem.

The most common cases concern highway accidents, claims arising from state hospitals, prisons and parks and actions involving the Highway Patrol and Department of Natural Resources conservation officers. Current tort claim limits are \$200,000 per person and \$600,000 per occurrence.

During the last biennium, the Office handled and closed 110 lawsuits and 963 claims, with an estimated value of \$6,312,554. Since the total amount paid on these cases as a result of verdicts and settlements was \$1,335,878, negotiation and litigation saved \$4,976,676.

Some of the cases tried before juries in the biennium include:

**1. Indirect Purchaser** — While using a welding torch to cut a paint barrel sold as scrap by the Department of Transportation, an indirect purchaser was injured in an explosion, causing serious loss of reasoning ability and memory. The jury found the state not liable, in Frye v. Ennis Paint Company.

**2. Libel Action** — Plaintiff alleged that comments by state officials in a newspaper article discouraged potential customers from purchasing his devices. The jury found in favor of the state, in Solar Enterprises v. Minnesota Energy Agency.

**3. Negligence Charge** — While participating as a pole vaulter in a high school track meet held at a state university, the plaintiff fell on his head and suffered paraplegia. The jury found that the state was not negligent, in Lindstrom v. Independent School District 548 and Moorhead State University.

**4. Discretionary Immunity Reviewed** — Judicial actions are increasing the Attorney General's burden in defending against tort claims. For instance, in Nusbaum v. State, the Minnesota Supreme Court reviewed the professional judgment of civil engineers who determined the speed limit on a highway and found that this type of decision is not protected from litigation by the discretionary immunity doctrine.

**5. Defense Burden Broadened** — Similarly, in Abbett v. County of St. Louis, the Court of Appeals held that the decision whether to install guardrails along an embankment is a professional, technical judgment which is reviewable by a jury.

These kinds of decisions, commonly required of state employees, were thought in the past to be immune from litigation.

## Transportation

In representing the Department of Transportation, the Attorney General's major emphasis is on assisting the Department in its push to finish construction of Minnesota's portion of the federal interstate highway system. Staff attorneys provide legal advice on a wide range of issues and handle real estate litigation. The Office provides opinions and land title examinations and representation in lawsuits over property acquisition.

In the last biennium the Office has undertaken:

1. Eminent Domain — The Attorney General's Office is handling the ac-

In addition, the Department's aggressive construction schedule has spawned legal actions ranging from environmental challenges to a major inverse condemnation action dealing with the economic impact of the highway on adjacent commercial property. In the latter case, the state Court of Appeals recently ruled that the state is not required to pay damages to owners of property which is in the path of a proposed highway corridor if that corridor was not eventually selected for construction of the highway.

2. Construction Issues — The Attorney General has formed a special unit of attorneys responsible for the legal needs of state agencies which have building or highway construction programs. These attorneys represent agencies which are in litigation and arbitration over contractors' claims and advise them on avoiding such disputes. The unit also becomes involved in efforts to recover cleanup costs for state-acquired land found to have been contaminated by a previous owner.

3. Regulatory Activity — The Office assists the Department in regulating various aspects of aeronautics, railroads and trucking operations in the state, involving considerable administrative litigation and rulemaking. Staff attorneys assist in negotiating loans to railroads for rehabilitation of rail lines and handle administrative litigation before the Transportation Regulation Board.

4. Contractor Debarments — State law requires that the Commissioner of Transportation prohibit contractors convicted of bid-rigging from bidding on state and local construction projects. The debarment proceedings involve litigation in which the Attorney General represents the Department.



quisition of property for highway construction along the route of I-394 in Hennepin County and I-35 through Duluth in numerous eminent domain actions. Most of these actions involve complex commercial and industrial properties.

## LEGISLATION



*Attorney General Humphrey visits a child care center during the Week of the Young Child in early 1988.*

Attorney General Humphrey actively participates in the law-making process by proposing new legislation, recommending amendments to state laws and supporting and testifying in favor of his proposals. His efforts in the last biennium were concentrated on four priority areas: child protection, environmental protection, assistance to farmers and consumer protection. In addition, he continued to work to strengthen Minnesota's laws that relate to drug and alcohol abuse, particularly those pertaining to the operation of vehicles while intoxicated.

Among bills supported by Attorney General Humphrey in the last biennium:

### Child Protection

24-Hour Child Abuse Hot Line (Ch. 358, 1987 Minn. Laws) — Establishes a telephone hot line in the Department of Human Services for reporting suspected abuse; the line also is available for health professionals who seek referral to other service providers.

Mandated County Child Protection Teams (Ch. 135, 1987 Minn. Laws) — Requires each county to organize a child protection team composed of representatives from law enforcement, social assistance and public health agencies to investigate reports of child abuse and coordinate handling of cases.

Child Witness Competency (Ch. 120, 1987 Minn. Laws) — Children under ten years of age are presumed to be competent witnesses unless the court finds otherwise.

Child Abuse Reporter Identification (Ch. 211, 1987 Minn. Laws) — The names of persons reporting suspected child abuse will be kept confidential.

### Environmental Protection

Hazardous Waste Transporter Licensing (Ch. 393, 1987 Minn. Laws) — Requires identification of vehicles and training and licensing of drivers who transport hazardous waste in or through the state.

Asbestos Contractor Licensing (Ch. 303, 1987 Minn. Laws) — Asbestos abatement contractors working on commercial-size projects must be licensed by the Department of Health and employees must be trained and certified.

Environmental Crimes (Ch. 267, 1987 Minn. Laws) — Extends the felony penalty to serious violations of environmental law relating to transportation, treatment and storage of hazardous waste and creates a new crime of 'knowing endangerment.'

PCA Administrative Penalties (Ch. 174, 1987 Minn. Laws) — Allows the Minnesota Pollution Control Agency to issue corrective orders and fines of up to \$10,000 for violations of state hazardous waste laws, a more efficient and fair process for smaller violations.

## Assistance to Farmers

Farmer-Lender Mediation (Chs. 474, 700, 1988 Minn. Laws) — Clarifies who is eligible to take advantage of the state law that helps financially troubled farmers by requiring that they and their creditors meet to work out mutually acceptable debt restructuring plans.

Corporate Farming Ban (Ch. 610, 1988 Minn. Laws) — Extends the ban on corporate ownership of agricultural land to limited partnerships to ensure that the state's farmers are owner-operators.

Farmer's Right of First Refusal (Ch. 700, 1988 Minn. Laws) — A seller of agricultural land acquired by foreclosure must notify the former owner at least two weeks before offering it for sale. The former owner may decide to repurchase all or part of the property.

## Consumer Protection

Used Car Warranty (Ch. 634, 1988 Minn. Laws) — Requires used car dealers to provide limited warranties on cars, trucks and vans, based on the vehicle's mileage.

HMO Bill of Rights (Ch. 592, 1988 Minn. Laws) — Requires health maintenance organizations to clearly state the services they are providing and excluding and further limits their ability to deny coverage for services already received.

Telemarketing Regulation (Ch. 294, 1987 Minn. Laws) — Regulates telephone solicitations by requiring that recorded messages be preceded by a live operator and must disconnect within ten seconds after a listener hangs up, and states that commercial solicitations can be made only between 9 a.m. and 9 p.m.

New Car Lemon Law Amendments (Ch. 52, 1987 Minn. Laws) — Extends the law's protections to two years after purchase or lease of a new auto and requires manufacturers to operate a consumer arbitration program in Minnesota as a condition for selling cars in the state.

Prepaid Funeral Plans (Ch. 509, 1988 Minn. Laws) — Protects those who pay in advance for funerals and cemetery costs by requiring stricter accounting of funds received by cemetery owners and funeral directors.

## Drug and Alcohol Abuse

Boating While Intoxicated (Ch. 368, 1987 Minn. Laws) — Clarifies procedures to be used when the operator of a boat, snowmobile or all-terrain vehicle is suspected of operating the vehicle while under the influence but refuses to submit to alcohol testing and establishes penalties for that refusal.

## OPINIONS

Attorney General Humphrey receives many requests each year for opinions from city and county attorneys, attorneys for school districts, unorganized territories, state officials and the Legislature. Some of these requests subsequently are dropped for lack of jurisdiction or because the issue could be resolved without a formal opinion.

However, if the matter meets the criteria of general applicability and/or interest, a published formal opinion or an informal letter of opinion may result. The Office received ninety-six such requests in 1987 and 111 requests in 1988.

Among the opinions issued are:

### County Attorneys

The Hennepin County Attorney has the authority, but not the general duty, to prosecute misdemeanors occurring on federal land which is not part of a municipality.

Op. Atty. Gen.  
121-b-7  
May 28, 1987

### Education

School boards may withdraw, or place a time limit upon, approval of students' enrollment in a nonresident district.

Op. Atty. Gen.  
169P  
November 9, 1987

A school district may, in proper circumstances, expel or exclude a student in consecutive years for the same incident of misconduct. A separate notice and hearing would be required for each expulsion or exclusion.

Op. Atty. Gen.  
169-f  
August 14, 1986

### Public Employees

A city in the metropolitan area may not establish residency requirements for city employees through a collective bargaining agreement.

Op. Atty. Gen.  
35a-19  
August 18, 1986

An increase in premium cost to employees under a group health insurance contract does not constitute a reduction in benefits requiring approval by affected employees. However, an increase in deductibles or copayments required from insured employees would be a reduction in benefits.

Op. Atty. Gen.  
59a-25  
December 15, 1987

### Sheriffs

A person not licensed as a peace officer may take office as sheriff but may not carry a firearm or make certain arrests until licensed. The office will be forfeited if the sheriff fails without good cause to be licensed within one year.

Op. Atty. Gen.  
39a  
September 26, 1986

### Unclaimed Property

Warrants issued by a county which have been unpaid or outstanding for more than five years must be reported and proceeds paid to the state under the Uniform Disposition of Unclaimed Property Act except where the warrants were not issued to satisfy unconditional liquidated county obligations.

Op. Atty. Gen.  
107a-10  
March 18, 1987

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Chief Deputy Attorney General

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