

**STATE OF MINNESOTA
IN SUPREME COURT**

Case No. A120920

OFFICE OF
APPELLATE COURTS

JUN 13 2012

FILED

League of Women Voters Minnesota; Common Cause, a District of Columbia nonprofit corporation; Jewish Community Action; Gabriel Herbers; Shannon Doty; Gretchen Nickence; John Harper Ritten; Kathryn Ibur, Petitioners,

vs.

Mark Ritchie, in his capacity as Secretary of State of the State of Minnesota, and not in his individual capacity, Respondent

and

State Senator Scott J. Newman and
State Representative Mary Kiffmeyer,

Applicants for Intervention as Intervenor-Respondents,

**REPLY OF INDIVIDUAL LEGISLATORS' TO PETITIONERS'
RESPONSE TO THE MOTIONS TO INTERVENE**

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Dated: June 13, 2012

*Counsel for Applicants State Senator Scott J. Newman
and State Representative Mary Kiffmeyer*

Petitioners League of Women Voters Minnesota¹ objects to Senator Scott J. Newman and State Representative Mary Kiffmeyer's motion to intervene as respondents in the instant matter. To the contrary, Senator Newman and Representative Kiffmeyer are necessary party-intervenors. As this Court knows, Senator Newman and Representative Kiffmeyer (former Secretary of State) are original co-authors of the Voter Identification Constitutional Amendment. They were also their respective house's co-chairs of the Joint Conference Committee that worked out the final language of the proposed amendment.

The League seeks review of this Court under Minnesota Statute § 204B.44(b): "any other error in preparing ... any official ballot." The Secretary of State did not "prepare" the ballot question; he is merely playing a ministerial role as Minnesota's election official responsible for the administration of elections. Further, the Secretary as a member of the executive branch is, stating the obvious, not a member of the Senate or the House of Representatives. Additionally, Secretary of State Ritchie is *not* in favor of the Voter Identification Amendment and has made statements in opposition to the Amendment.²

¹ References to League of Women Voters Minnesota is inclusive of all Petitioners.

² "Secretary of State Ritchie urges veto of Voter ID bill," MinnPost (May 25, 2011), <http://www.minnpost.com/political-agenda/2011/05/secretary-state-ritchie-urges-veto-voter-id-bill>; "Mark Ritchie: Swift action needed to save same-day registration," WinonaDailyNews.com (Mar., 30, 2012), http://www.winonadailynews.com/news/opinion/editorial/columnists/article_8d75c930-79ce-11e1-93eb-0019bb2963f4.html; "Secretary of State Ritchie Urges Senate Not to Rush to Pass the Eliminate Same-Day Registration," Sec. of State News Release (Mar.28, 2012), <http://www.sos.state.mn.us/index.aspx?recordid=609&page=10>; "Dayton, Richie call for Photo ID Alternative," (Mar. 8, 2012), <http://minnesota.cbslocal.com/2012/03/08/kiffmeyer-calls-photo-id-substitute-unacceptable/>.

Thus, without questioning his integrity or responsibility to defend the proposed constitutional amendment as an indentified respondent, it does raise a question if the Secretary can wholly represent the interests of the co-authors of the proposed amendment?

Although the League argues that “[t]he issue here is whether the ballot question is ‘so unreasonable and misleading as to be a palpable evasion of the constitutional requirement to submit the law to a popular vote,’”³ the statement is contrary to the League’s expectations of this Court. As the League stated, “we expect that this Court will closely examine the proposed amendment and carefully consider the effect that the amendment will have on voting in Minnesota if it becomes a part of our Constitution.” In order to meet the League’s expectations, it cannot solely rely upon the Secretary of State’s version of the authors’ intent, research, and expectation of what will occur (through either future proposed statutes or regulations to implement the Amendment if and when passed).

Importantly, it cannot be forgotten that Representative Kiffmeyer was this State’s Secretary of State for a number of years and is intimately familiar with the election registration and ballot process. As this Court knows, the process to propose a constitutional amendment does not make it a law.⁴ Under Article IX, § 1, to bring the proposed amendment to a popular vote, a majority of the members of each house may propose the amendment. Senator Newman and Representative Kiffmeyer, each as a member of their respective house proposed the amendment. As co-authors they would, as a matter of course, have a unique perspective of the origins of their original amendment, their expectations of the effect and affect of that amendment.

³ Pets’ Resp. to the Motions to Intervene at 6 (June 12, 2012).

⁴ See, Minn. Const., art. IV, §§ 22 and 23.

Importantly, standing is apparently constitutionally embedded within Article IX for those members who propose the amendment. Like Article V of the United States Constitution where “[t]he Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution...,” and where the U. S. Supreme Court has found individual legislator standing,⁵ the Minnesota Constitution under Article IX confers the same type of standing upon individual legislators in the majority offering a proposed constitutional amendment in the instant type of proceeding.

For these reasons, the application for intervention should be granted.

⁵ *Coleman v. Miller*, 307 U.S. 433 n(1939).

Dated: June 13, 2012



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Mary Gynild

Subscribed and affirmed to before me
this 13th day of June, 2012.



Notary Public



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June 13, 2012

Via Email and U.S. Mail

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OFFICE OF
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Re: League of Women Voters Minnesota, et al. v. Mark Ritchie
Appellate Case No. A12-0920

Dear Ms. Gernander:

Enclosed for filing in the above referenced matter are fourteen (12 bound/2 unbound) copies of the following:

1. Reply of Individual Legislators' to Petitioners' Response to the Motions to Intervene; and
2. Affidavit of Service.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Erick G. Kaardal

EGK/mg

Enclosures

cc: Counsel of Record – See Attached Service List (w/enc)(via email and mail)

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