Relevant Information on Bills

SB 73
HB 119

March 1, 1973

Mr. Arthur S. Richmond
236 West Tenth Avenue
Anchorage, Alaska 99501

Dear Mr. Richmond,

Thank you for the follow-up of your phone call. It's a great deal easier for a committee to actually look at proposed legislation in printed form. The Senate bill at present is not in our possession but we expect it to ride in committee almost daily; at such time as we bring it up, I'll present copies of your letter to all members.

Sincerely,

Clem Tillion

CT:sam

Alaska State Interment Association
236 West Tenth Avenue
Anchorage, Alaska 99501
February 23, 1973

The House of Representatives
Judiciary Committee
The Honorable Representative Clem V. Tillion
Pouch V
Juneau, Alaska 99801

Dear Representative Tillion:

We respectfully submit the following and request that it be considered by all members of your Committee in order to make proper amendments to Senate Bill 73 and House Bill 119, (Burial of Bodies).

Both Bills are most inadequate in their present form in as much as no provision has been made for decent and final disposition of cremains or ashes. Also, what constitutes decent burial and where.

The normal and decent disposition of cremains, and in fact, all human remains is in a properly organized cemetery where final location can be properly noted, mapped, and recorded. Cremains being inurned in a cemetery columbarium or buried in a specially platted plot for cremains, the latter being the least expensive.

The very existance of cemeteries and the laws governing them is testimony that the public is unanimous as to where and how decent disposal of human remains including cremains take place.

Alaska Statutes Title 10 Chapter 30 and especially Section 130 requiring proper platting and recording are evidence of this, also our Criminal Code Title 11 Chapter 40 Section 440 through 470. This thinking is made quite clear throughout the many references to American jurisprudence and court precedence.

Another point to contemplate is unless provision is made for final disposition of both bodies or cremains in an established cemetery where proper records are kept, a possible future relative appearing later would be deprived of their right to memoralize their deceased relative.

If provisions are not made for the disposing of cremains according to American custom as outlined herein, publicity to this effect would find the majority of public opinion vigorously disapproving.

We, therefore, suggest the following amendment.

> The coroner shall notify the Department of Health and Social Services, which shall cause the body to be plainly and decently buried or cremated and decently buried in a cemetery approved by the Department of Health and Social Services.

Sincerely,

Arthur S. Richmond
Chairman, Alaska State
Interment Association

ASR:la

Testimony of Peter Bridge - March 5, 1973

HB-84

Mr. Chairman, members of the Committee. I want to thank you for this opportunity to express my thoughts on the legislation proposed to provide absolute testimonial immunity to newsmen.

First, let me commend this state for this important action. Many states in America have become aware of the danger to a free press, and many are considering adoption of shield laws. Except for my own Legislature in New Jersey, however, I believe Alaska is the only state which has begun its consideration with submission of an absolute immunity proposal.

But while other states may have begun at a different point, they have moved inevitably to the conclusion of absolute immunity. Illinois and Michigan, for example, are now considering amendment of the existing shield to complete privilege; California and New York, whose laws were presumed to be adequate, are amending them to fill loopholes made apparent by the existing controversy, which has resulted in the jailing of five newsmen and threatened the jailing of more than 75 more.

I am one of those newsmen who was jailed after the U.S. Supreme Court ruled last June 24th that we have no constitutional right to refuse to appear and testify before grand juries. In fact, I was the first newsman incarcerated after the so-called [illegible]. I am in contempt dating from October 4 to October 24 because I refused to answer some fifty questions before a grand jury in Essex County, New Jersey. My refusal was based on my deep conviction that the press in America is not an adjunct of government, and cannot be pressed into service as an investigator.

The Fourth Estate, in the concept, is historically an adversary of government in that its responsibility is an active check and investigation of all government activities. The client [illegible]

to the principal of a free flow of information is on behalf of the people, not the bureaucrats.

Our forefathers felt so strongly about the importance of the free press that they were impelled to guarantee its independence and strength through adoption of the first amendment to the Constitution. [illegible] only non-government profession to be so-named.

The Supreme Court has held that the Constitutional guarantee does not grant testimonial immunity. But that decision also states that the upholding of the contempt citations against the appellant was made in the absence of shield laws.

Thus, we are left with the options of adopting that shield, or opening the press to further intimidation by government, and perhaps then the destruction of a free press in America.

Don't think it can't happen. It can, and will, unless we take corrective measures now.

Every scandal in America that has been exposed in the past two centuries has been the fruit of an aggressive press. Conversely, the free press has been responsible for the righting of more public wrongs in this country than any other institution:

In Michigan, a man imprisoned for years after a murder conviction was freed after an enterprising reporter proved him innocent; A marine from New York won a new trial and was subsequently [illegible] after a Boston newspaperman investigated and turned up evidence of his innocence.

Cases such as these comprise a long list, just as those exposing corruption and crime do.

[illegible] a particular type in a free and strong press, particularly as it stands on the threshold of great affluence in the development of its oil fields.

I understand, and [illegible] information is correct, that [illegible], Wyoming, at least $400 million in new [illegible]

just about matches the total budget expenditures by the State.

If ever there was a situation which promised corruption possibilities, this one does. I will practically guarantee ramoant corruption if the press is unable, because of intimidation, to perform its responsibility to check it. But I will promise the opposite, if this legislature enacts the proper press shield.

That shield must grant absolute immunity from being forced to disclose news sources, and unpublished information because recent history has demonstrated that there is no immunity in conditional immunity. Time and time again the conditions, no matter what shape form or substance, have been used to destroy the shield.

I feel so strongly about this, that I will make this unequivocal statement: If this legislature does not adopt absolute immunity, it might as well enact no law at all. No law is precisely the equal of a conditional law.

But as you continue your considerations, I would remind you of the source of your own authority and the responsibility that goes with that authority.

The people comprise that source, and the people require meaningful action. I can testify to that from a mountain of mail I have received as a result of my own experience. The [illegible] and want it. You have a moral duty to [illegible] in the Alaska jurisdiction. Your pledge will help compress in its inevitable movement toward adoption of a federal law.

A free press is necessary to the successful operation of [illegible] democracy. Consequently, its protection is necessary to elimination of our liberties.

Benjamin Franklin recognized this in the 18th Century, when he observed: "Those who would give up essential liberty to purchase [illegible] deserve neither liberty or safety."

We only have to know about countries like the Phillipines, Chile, Korea, Soviet Russia, and China, to understand the impact of that remark.

We live in America, the rock of freedom in the world. We must not allow our basic liberties to be taken from us. We will not if our representatives act responsibly and aggressively.

As a rigid devotee of the American system, I am certain that our representatives will meet that responsibility.

Thank you for your attention and consideration.

ALLIED DAILY NEWSPAPERS OF Washington

18740 Pacific Highway South
(Sea-Tac Motor Inn)
Seattle, Washington 98188

PAUL R. CONRAD
Executive Director
Telephone (206) 248-0770

HB-84

February 12, 1973

L. M. Williams, Jr., Managing Editor
Ketchikan Daily News
Post Office Box 79
Ketchikan, Alaska 99901

Dear Lew:

For several reasons I wouldn't advise working in favor of H.B.84. The wording makes it clear that the source of information is protected, but the information itself seems to be covered only insofar as .09.25.140 would cover "notes, recordings, photographs, or other materials. . . ". That would not, then, include information in the reporter's memory.

From there on most of the language is involved in divestiture of the privilege under various circumstances. The general view these days is that the privilege should not be subject to the discretion of a judge. We here in Washington seem to be heretics because we are willing to qualify the privilege, at least for libel.

The bill language serves print media only. Here in Washington we have included broadcasters as well, and have their active support.

I think you'll want to develop a newsman's privilege bill separate from the public official privilege statute. And it will be somewhat awkward to ask for fewer qualifications than the public official works under. But so long as the two are intertwined as in H.B. 84, you are going to be saddled with the same qualifications for both.

I enclose a copy of our favorite bill, which repeats the existing privilege statutes, so you can see how the newsman's section relates to the rest.

Best personal regards, and congratulations on your appointment to the Judicial Council.

Sincerely,

Paul

Paul R. Conrad
Executive Director

PRC:dw

Enclosure

HOUSE BILL NO. 345

State of Washington
43rd Regular Session

by Representatives Charette, Rabel, Kelley, Gasprd and Wilson

Read first time January 24, 1973, and referred to Committee on Judiciary.

AN ACT Relating to witnesses; amending section 294, page 187, Laws of 1854 as last amended by section 7, chapter 13, Laws of 1965 and RCW 5.60.060; and amending section 95, page 117, Laws of 1854 as last amended by section 106, Code of 1881 and RCW 10.52.020.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 294, page 187, Laws of 1854 as last amended by section 7, chapter 13, Laws of 1965 and RCW 5.60.060 are each amended to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian.

(2) An attorney or counselor shall not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

(3) A clergyman or priest shall not, without the consent of a person making the confession, be examined as to any confession made to him in his professional character, in the course of discipline enjoined by the church to which he belongs.

(4) A regular physician or surgeon shall not, without the consent of his patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him to prescribe or act for the patient, but this exception shall not apply in any judicial proceeding regarding a child's injuries, neglect or sexual abuse, or the cause thereof.

(5) A public officer shall not be examined as a witness as to communications made to him in official confidence, when the public interest would suffer by the disclosure.

(6) Any person who receives information in written, oral, or pictorial form while acting in a news-gathering, news-processing, or news-disseminating capacity in the employ of or in association with a newspaper, magazine, radio or television station or network, cable transmission system, press association, press wire service, news agency, or other such organization shall not be examined as a witness in any criminal or civil proceeding, or before any jury, investigative body or commission, or before a committee of the legislature, or elsewhere, as to the source and such information: PROVIDED, That the privilege conferred by this subsection to refuse or fail to disclose the source of information shall not be available in a civil action for defamation if there is a concrete demonstration that identification of the source of allegedly defamatory information will lead to persuasive evidence on the issue of malice.

Sec. 2. Section 95, chapter 117, Laws of 1854 as last amended by section 1069, Code of 1881 and RCW 10.52.020 are each amended to read as follows:

Witnesses competent to testify in civil cases shall be competent in criminal prosecutions, but regular physicians or surgeons, clergymen or priests, or persons engaged in a news-gathering, news-processing, or news-disseminating capacity for news media shall be protected from testifying as to confessions, or information received from any defendant, by virtue of their profession and character((: Indians shall be competent witnesses as

hereinbefore provided; or in any prosecutions in which an Indian may be a defendant)).

WILFRED C. STUMP

W. CLARK STUMP

STUMP & STUMP
ATTORNEYS-AT-LAW
314-317 COMMERCIAL BUILDING
BOX 2693
KETCHIKAN, ALASKA 99901
PHONE 225-4131

February 26, 19[illegible]

Mr. Lew Williams, Jr.
Editor - Daily News
P. O. Box 79
Ketchikan, Alaska

RE: House Bill No. 84
Reporter Privilege

Dear Lew:

I have undertaken a research of the proposed House Bill No. 84 in comparison with the effect of the present legislation contained in AS 09.25.150-220, concerning the claim of privilege by newspaper reporters as to the disclosure of source information.

First, the House Bill No. 84, hereinafter referred to as H.B. initiates a new statute as follows:

> AS 09.25.140. CLAIMING OF PRIVILEGE BY REPORTER. No reporter may be compelled to disclose the source of information procurred or obtained by him while acting in the course of his duties as a reporter. No reporter may be compelled to disclose or produce for inspection notes, recordings, photographs, or other materials procured or obtained by him while acting in the course of his duties as a reporter.

Heretofore, the old laws on this subject, enacted in #1 ch 115 SLA 1967, had no specific privilege relating to reporters solely; but rather joined both PUBLIC OFFICIALS and REPORTERS.

The proposed H.B. next moves to amend AS 09.25.150 through 210 by deleting the word REPORTER therefrom. Thus, the statutes relating to the claim of privilege, through the challenge of the privilege and the order divesting the public official of this privilege in certain situations would be applied solely to the PUBLIC OFFICIAL and not to the REPORTER.

As you know, the legislation heretofore enacted would preclude a PUBLIC OFFICIAL or REPORTER from claiming the privilege when the court would find that the:

> "AS 09.25.160 ... withholding of the testimony would
>
> (1) result in a miscarriage of justice or the denial of a fair trial to those who challenge the privilege; or
>
> (2) be contrary to the public interest."

The new H.B. would delete the REPORTER from these preclusions and limit them only to PUBLIC OFFICIALS; thus granting complete immunity to the REPORTER pursuant to the proposed statutory limitations on revealing a source of information (See limitations contained in AS 09.25.140, supra, in which there are no limitations).

Thereafter the proposed amendments in AS 09.25.190 through 210 would delete any reference to REPORTER and NEWS ORGANIZATIONS WITH WHICH THE REPORTER WAS ASSOCIATED.

As a clincher, AS 09.25.220 (1) under "Definitions", the word "privilege" is amended to add the following:

> "AS 09.25.220 (1) "privilege" means the conditional privilege granted to public officials to refuse to testify as to a source of information AND THE UNCONDITIONAL PRIVILEGE GRANTED TO REPORTERS TO REFUSE TO TESTIFY AND TO REFUSE TO PRODUCE NAMES, RECORDINGS, PHOTOGRAPHS OR OTHER MATERIALS REGARDING A SOURCE OF INFORMATION."

Once again, the complete immunity of the REPORTER is emphasized.

Lastly, the new H.B. broadens the definition of "reporter" in AS 09.25.220 (d) by allowing persons who write "articles" for publication, rather than limiting it to "writing news" for publication. Furthermore, the reporter may not only present this for publication to the public through a news organization, but also through a "publisher" under the proposed new H.B.

One of the first cases of recent origin raising the question of whether the identiy of the news sources is protected under the First Amendment to the Constitution of the United States (Congress shall make no law ... abridging the freedom of speech, or of the press) was Garland vs. Torre, 358 US 910, 3 L ed 2d 231, 79 S Ct 237 (New York 1958) involving defamation. The court ordered the reporter to cite her source of information and the reporter refused. The Appeals Court pointed out that freedom of the press was not absolute and related primarily to the right to publish without the interference of censorship, and that even if the question before the court did involve a First Amendment liberty, it must yield to the fair administration of justice. The court was of the opinion that since the question asked of the reporter went to the heart of the plaintiff (Judy Garland)'s claim, there was no constitutional right to refuse to answer.

Relating this case to our present statutory law on this subject, it would appear that our statutes are right on all fours with that decision. However, if the present new H.B. were enacted, such immunity would be ironclad and the reporter would not have to divulge the source of this information. I don't imagine it would be long before our Supreme Court would over-rule this legislation if enacted.

Research on the difference between divulging the source of information by reporters in cases concerning civil matters as opposed to criminal matters show varied results by the respective jurisdictions. In criminal matters one case, State vs. Donovan, 30 A2d 421 (New Jersey 1943) held that disclosure was required despite a statute to the contrary, and another the refusal to disclose was upheld, In Re Taylor, 193 A2d 181 (Pennsylvania 1963).

In civil matters, one case, Orlando Cepeda vs. Cohane, 233 F Supp 465, New York 1964) held that the reporter was required to divulge the source of his information. Contra, the court granted the privilege to a newspaper and its employees against the disclosure of sources of information in Re Howard, 289 P2d 537 (California 1955)

There just doesn't appear to be any continuety. However, one thing is certain. This proposed legislation certainly will be tested by our Supreme Court if put to the test.

I read with interest your February 1973 issue of COUNTERMEDIA article on "un-SHIELDING THE PRESS" where the author commented on the proposed legislation in House Bill No. 84. The author opposes the proposed legislation and comments that should it be enacted " ... I would hope they will first be redrafted to tighten up the legal definition of "newsman" or "reporter" to exclude charlatans or pseudo-journalists from their protections, as the bills in their present form do not." And quite right he is, for the proposed legislation does not limit the claim of privilege in any manner; but unequivocally allows the reporter the right to claim the source of his information as privileged, and not subject to disclosure even by court order. If one in your profession such as the author above disagrees with the proposed legislation, I can think of no other reason for his belief other than the inevitable conclusion that he believes the proposed legislation would not withstand the test by our courts, and the proposed legislation is too broad in it's scope in defining REPORTER.

In conclusion, I believe the proposed House Bill No. 84 would grant complete immunity to the REPORTER from divulging the source of his information. As such he would, I believe, be the sole type individual in our State with this complete immunity. Alaska Rules of Civil Procedure, 43(h) allows privileges to attorney/client, husband/wife, physician/patient, confessor/confessant, and self incrimination which is also contained in Article 1, Section 9 of the Alaska Constitution and the Fifth Amendment to the Constitution of the United States. Yet - under certain conditions, the veil of the privileged is allowed removal of the persons above protected.

In essence, the proposed legislation (H.B. 84) is (1) too broad in it's scope in defining the word REPORTER, and (2) grants complete immunity to a reporter under any and all conditions wherein it should not.

Very truly yours,

STUMP & STUMP

BY: 
W. Clark Stump

WCS:ra

PRO SHIELD LAW—Peter Bridge of New Jersey, the first of several newsmen to go to jail recently for refusing to reveal confidential information, testified before the House Judiciary Committee Monday in support of a newsmen's shield bill. Bridge favors an absolute shield, which would prevent a newsman from being subpoenaed by any government agency, rather than a conditional law. "Any condition that's in the law, no matter what the form or substance, tends to destroy the shield, and that's why it's a waste of time and effort to bother to pass a conditional law. If you're going to pass a conditional law, don't pass any." (Empire photo)

Jailed Newsman Defends 'Shield'

By JULI CHASE
Empire Staff Reporter

New Jersey newsman Peter Bridge, testifying in support of a proposed newsmen's shield law, has told an Alaska House committee that "if the legislature considers anything other than absolute immunity, it is wasting its time and might just as well fold up and forget about it."

Bridge, 36, the first of several newsmen to be jailed recently for refusing to reveal confidential sources, told members of the House Judiciary Committee late Monday the issue at hand is not so much a press issue as it is a public issue.

"Really all that's at issue is the free flow of information, not whether or not a reporter goes to jail," Bridge said. "Unfortunately that's the manifestation of the conflict—reporters are going to jail."

Currently being considered by the Judiciary Committee is an absolute shield bill introduced by Democratic Representatives Russ Meekins and Bill Parker of Anchorage, and Mike Miller of Juneau.

Alaska's current shield law "provides no immunity whatsoever," Bridge said, because it is conditional.

Bridge said he favors an absolute shield law, because "my experience and my research—my experience more meaningfully than my research—has shown me that conditional immunity is no immunity, the condition inevitably destroys the shield."

A shield law would grant newsmen testimonial immunity in order to protect sources. "It would be illegal for a prosecutor to seek testimony, notes or sources of information from a news reporter," he said.

Bridge said that of the 18 states now having shield laws, 13 of them have absolute laws. Currently in Congress an absolute shield law is being considered, and he said this is the "preferable thing to do—pass a federal law that goes the whole way, grants absolute immunity and preempts state law."

"A shield law applies to the newsgathering and publishing process, and that's it," Bridge told the Empire. "A shield law doesn't give him the privilege to commit robbery or mayhem. It doesn't give him the privilege even to be publically drunk if there's a law against it."

"It applies to him doing what he's supposed to do, that being

(See Jailed, Page Ten)

Jailed Newsman--

(Continued From Page One)

his responsibility given to him under the first amendment," he said.

That responsibility, Bridge says, goes directly to the people. "That is to say that a newsman is responsible...for the free flow of information to the public."

"If the public wants it or doesn't want it, believes it or doesn't believe it really has no bearing on it," he said. "The fact is that the public has a right to have it available to them—any information, all information—and the press is responsible for that free flow of information."

Bridge told the committee that because jailing newsmen is "becoming a habit," sources are not making themselves as readily available as previously. Another thing that is happening, he said, is that "reporters, being human and not wanting to go to jail, are finding themselves taking steps that they might not otherwise take, and those steps include leaving some information out of stories that might be so controversial as to win them a subpoena."

"Either way it's censorship and either way the public loses because that information is not coming to them...because the source did not come forward or because the newsman didn't want to go to jail and therefore took remedial steps."

Asked if passage of an absolute shield law would mean that more people would come forward with information, Bridge said, "I don't think it follows naturally, but I think you certainly could expect it." He said it might result in the press becoming a little more agressive and developing "bigger and better sources."

"I forsee a communications boom in this state," Bridge said. "You just learn a little bit about this state and you know that one of the things that has to develop quickly is communications."

He said the communications people who come to the state, as well as the ones that are already here, "have got to be protected, they're as much a natural resource as the gold in the hills—and a hell of a lot more valuable, I think."

House Judiciary Chairman Clem Tillion said Bridge's testimony for the proposed law was not convincing enought to move the measure from committee.

The Halibut Cove Republican said he would hold the bill until Alaskan newsmen have an opportunity to testify before the committee.

LOBBYIST LIST

1971 Legislative Session

Card No.	NAME & ADDRESS	REPRESENTING
794	Rick Lauber Box 1625 Juneau, Alaska 99801 586-6366 6367 6-1324	Association of Pacific Fisheries The Alaska Bar Association Himself
795	Phil R. Holdsworth 1009 Mendenhall Apartments Juneau, Alaska 99801	Alaska Visitors Association
796	Frank A. Seymour Box 2208 Anchorage, Alaska 99501	Alaska State Employees Assoc.
797	Ernest W. Lahn Box 514 Juneau, Alaska 99801	Alaska State Employees Assoc.
798	Jon A. Carter 114 So. Franklin Juneau, Alaska 99801	United States Brewers Assoc. Inc.
799	R. J. Annis Box 1728 Juneau, Alaska 99801	Alaska State Chamber of Commerce
800	Don Dickey 209 N. B. A. Building Juneau, Alaska 99801	Alaska State Chamber of Commerce
801	Jean Clarke 208 N. B. A. Bldg. Juneau, Alaska 99801	Himself
802	Thomas E. Kelly 165 Behrends Avenue Juneau, Alaska 99801	Association of Alaska School Boards
803	Alice C. Crosby Box 1072 Juneau, Alaska 99801	Phillips Petroleum Company
804	Robert L. Looney 1108 Security Life Building Denver, Colorado 80202	

1971 Lobbyist List (Cont'd)

Card No.	NAME & ADDRESS	REPRESENTING
805	Marilyn Miller 210 Admiral Way Juneau, Alaska 99801	The Alaska Municipal League
806	Don M. Berry 210 Admiral Way Juneau, Alaska 99801	The Alaska Municipal League
807	Charles Waco Shelley 680 Douglas Highway Juneau, Alaska 99801	Mobil Oil Corporation
808	Robert J. Walker, Jr. Box 440 Anchorage, Alaska 99501	Humble Oil & Refining Co.
809	William W. Hopkins #550 - 425 "G" Street Anchorage, Alaska 99501	Alaska Oil and Gas Association
810	Robert C. Cooksey 207 Seward Building Juneau, Alaska 99801	Alaska Education Association, Inc
811	Robert Van Houte 207 Seward Building Juneau, Alaska 99801	Alaska Education Association, Inc
812	Marcus K. Singletary 711 W 8th Avenue Anchorage, Alaska 99501	Atlantic Richfield Company
813	Richard T. Hall Box 1189 Juneau, Alaska 99801	National Bank of Alaska
814	V. V. McGrew, Jr. Box 440 Anchorage, Alaska 99501	Humble Oil & Refining Co.
815	G. S. O'Claray 306 Willoughby Avenue Juneau, Alaska 99801	Inland Boatmen's Union
816	Dwayne Carlson 1035 E. 28th Avenue Anchorage, Alaska 99501	Alaska State Federation of Labor
817	J. P. Irvine 507 L. Street Anchorage, Alaska 99501	Standard Oil Company of Calif.
818	L. Lee Bryant Box 2380 Anchorage, Alaska 99501	Marathon Oil Company

1971 Lobbyist List (Cont'd)

Card No.	NAME & ADDRESS	REPRESENTING
819	Ross P. Duncan 218 Front Street Juneau, Alaska 99801	Alaska Association of Independent Insurance Agents
820	James J. Hurley Box 157 Wasilla, Alaska	The Alaska Bankers Association
821	Ferrall W. Campbell Box 302 Juneau, Alaska 99801	Local 302, International Union of Operating Engineers
822	L. C. Coffman 301 N. Franklin Juneau, Alaska 99801	Alaska League of Insured Savings and Loan Assn.
823	Roscoe E. Bell 4241 N. E. 81st Avenue Portland, Oregon 97218	B. P. Alaska, Inc.
824	Glen R. Craig P. O. Box 936 Juneau, Alaska 99801	Alaska Miners' Assn.
825	Philip B. Byrne 308 G Street Anchorage, Alaska 99501	Alaska Legal Services Corp.
826	Joan M. Pelto 529 East Street Juneau, Alaska 99801	League of Women Voters
827	Clifford Nordenson P. O. Box 521 Juneau, Alaska 99801	Alaska State Culinary Alliance
828	Joseph M. Briones P. O. Box 250 Juneau, Alaska 99801	The American Legion
829	Louis F. Fiorella P. O. Box 670 Juneau, Alaska 99801	The Veterans of Foreign Wars
830	Dean Ehrich P. O. Box 1727 Anchorage, Alaska 99501	Alaska Retail Assn., Inc.
831	Jack Hession 3701 Eureka Street, No. 329 Anchorage, Alaska 99501	Sierra Club

1971 Lobbyist List (Cont'd.)

Card No.	NAME & ADDRESS	REPRESENTING
832	F. O. Eastaugh, Esq. P. O. Box 1211 Juneau, Alaska 99	Insurance Association Management Corporation
833	John B. Rodersen 2405 Denali Street Anchorage, Alaska	Pipeline Service Co.
834	Elaine Seymour P. O. Box 2208 Anchorage, Alaska 9	Curation and Welfare; Industry
835	John Grasso 6301 Rosewood Anchorage, Alaska	e Refuse, Inc.
836	H. C. Banfield, Esq. Room 201, 431 Front Juneau, Alaska 9980	Mutual Insurance Alliance Finance Corporation
837	Thomas E. Casher P. O. Box 246 Juneau, Alaska 99801	/ International Prof'nerhoo ical Workers
838	Mark Jensen P. O. Box 249 Douglas, Alaska 99824	ion of Small Independent
839	Robert C. Ogden 1135 W. 8th Avenue Anchorage, Alaska	State Medical Assn.
840	Frank X. Chapados 3443 Minnesota Drive Anchorage, Alaska 99	arriers Assn.
841	Edward R. Sanders 3443 Minnesota Drive Anchorage, Alaska 99	Carriers Assn.
842	E. H. Hill P. O. Box 1154 Juneau, Alaska 9980	tate Council of Carpenters
843	Ken Hinchey P. O. Box 33788 Anchorage, Alaska	gregate Corp. dba Western Lines
844	John C. Hale 218 Front Street Juneau, Alaska 9980	Pacific Assurance Company

1971 Lobbyist List (Continued)

No.	NAME AND ADDRESS	REPRESENTING
844	John H. Hale 218 Front Street Juneau, Alaska 99801	Alaska Pacific Assurance Company
845	Ray Mathews P. O. Box 1047 Juneau, Alaska 99801	Himself
846	Newton W. Chandler 321 N. Franklin Street Juneau, Alaska 99801	Marsh & McLennan, Inc. of Alaska
847	Barry W. Jackson P. O. Box 308 Fairbanks, Alaska 99701	Alaska Federation of Natives
848	James Ede 1427 M Street Anchorage, Alaska 99501	District One Education Association

1971 Lobbyist List (continued)

Card No.	NAME AND ADDRESS	REPRESENTING
880	Dorik V. Mechau Alaska Methodist University Anchorage, Alaska 99504	Alaska Methodist University
881	Avrum M. Gross, Esq. 311 Franklin Street Juneau, Alaska 99801	Alaska League of Savings & Loan Associations
882	Richard K. Urion P. O. Box 4-175 Anchorage, Alaska 99501	Home Builders Assn. of Alaska
883	Robert Scott Lafavour P. O. Box 11 Auke Bay, Alaska	Himself
884	Joseph S. Sweaney RR 2, Box 1271 Juneau, Alaska 99801	Himself
885	Keith Jones Ambler Alaska 99786	Himself
886	C. [illegible] Coughlan 1825 S. Bragaw Street Anchorage, Alaska	American Carbon Co. Ruge & Associates
887	James Lundgren P. O. Box 2752 Fairbanks, Alaska 99701	Alaska Chapter of Associated General Contractors of America
888	Butch Swartz 1250 Glacier Avenue Juneau, Alaska 99801	Alaska High School Lobbyist Assn.
889	Philip Smith Box 175 Auke Bay, Alaska	Alaska High School Lobbyist Assn.
890	Clarence Tipton, Jr. P. O. Box 266 Juneau, Alaska 99801	Alaska High School Lobbyist Assn.

CARD NO.	NAME AND ADDRESS	REPRESENTING
920	Richard T. Hall P. O. Box 1189 Juneau, Alaska 99801	National Bank of Alaska
922	Robert L. Looney 1108 Security Life Bldg. Denver, Colorado 80202	Phillips Petroleum Company
923	William W. Hopkins 550 First National Bldg. Anchorage, Alaska 99501	Alaska Oil and Gas Assn.
924	Louis F. Fiorella P. O. Box 670 Juneau, Alaska 99801	Veterans of Foreign Wars
925	R. J. Annis P. O. Box 1728 Juneau, Alaska 99801	United States Brewers Association, Inc.
926	E. Lee Bryant P. O. Box 2380 Anchorage, Alaska 99510	Marathon Oil Company
927	Phil R. Holdsworth 1009 Mendenhall Apartments Juneau, Alaska 99801	Himself
928	Mark Jensen Box 249 Douglas, Alaska 99824	Association of Small Independent Banks
929	Diana E. Tillion Halibut Cove Alaska	Herself
930	Marcus K. Singletary P. O. Box 360 Anchorage, Alaska	Atlantic Richfield Co.
931	Dwayne Carlson 1035 E 28th Avenue Anchorage, Alaska	Alaska State Federation of Labor
932	Greg O'Claray 306 Willoughby Avenue Juneau, Alaska 99801	Inlandboatmen's Union of the Pacific - Alaska Region
933	Gordon F. Evans 201 NBA Building Juneau, Alaska 99801	Blue Cross Washington Alaska, Inc.

CARD NO.	NAME AND ADDRESS	REPRESENTING
934	Allan A. Engstrom 201 NBA Building Juneau, Alaska 99801	Blue Cross Washington Alaska, Inc.
935	F. A. Seymour Box 2208 Anchorage, Alaska	Alaska Visitor Assn.
936	Dean Ehrich Box 1727 Anchorage, Alaska	Alaska Retail Assn., Inc.
937	Ferrall W. Campbell 306 Willoughby Avenue Juneau, Alaska	International Union of Operating Engineers, Local 302
938	John R. Roderick 1620 Hidden Lane Anchorage, Alaska	Alyeska Pipeline Service Company
939	John P. Irvine 506 Sixth Street Anchorage, Alaska	Standard Oil Co. of California
940	Robert M. Scott Room 100, NBA Bldg. Juneau, Alaska 99801	Life Insurance Assn. of America

Card No.	Name and Address	Representing
1022	Frank Seymour P. O. Box 2203 Anchorage, Alaska	Alaska Visitors Assn.
1023	W. D. Overstreet 318 Highland Drive Juneau, Alaska 99801	Assn. of Alaska School Boards
1024	Robert J. Walker Box 440 Anchorage, Alaska 99510	Exxon Company
1025	C. Waco Shelley 680 Douglas Highway Juneau, Alaska 99801	Mobil Oil Corporation
1026	R. J. Annis, Esq. Box 1728 Juneau, Alaska 99801	U.S. Brewers' Assn.
1027	Joseph M. Briones Box 215 Juneau, Alaska 99801	The American Legion
1028	E. L. Holloway 135 Douglas Highway Juneau, Alaska 99801	The American Legion
1029	Park Jenson P. O. Box 249 Douglas, Alaska 99824	Associated General Contractors Alaska Lumber & Pulp
1030	Robert M. Scott 1703 Willow Drive Juneau, Alaska 99801	Life Ins. Assoc. of America
1031	Robert J. Dupere 510 Sixth Street Juneau, Alaska 99801	Alaska National Guard Officers Association
1032	Louis F. Fiorella P. O. Box 670 Juneau, Alaska 99801	Veterans of Foreign Wars
1033	Donald P. Magnusson P. O. Box 1727 Anchorage, Alaska 99510	Alaska Retail Assn., Inc.
1034	Dean Ehrich P. O. Box 1727 Anchorage, Alaska 99510	Alaska Retail Assn., Inc. Anchorage Businessmen's Assn., Inc
1035	Gail Miller 2130 Hermit St. Juneau, Alaska 99801	Self
1036	Debbie Gazaway 181 Behrends Avenue Juneau, Alaska 99801	Self

ALASKA BAR ASSOCIATION

BOARD OF GOVERNORS

Lester Miller, President
Kay, Miller & Libbey
425 G Street
Anchorage, Alaska

Russell E. Arnett
Attorney at Law
515 D Street
Anchorage, Alaska

Ronald G. Benkert
McCutcheon, Groh & Benkert
430 C Street
Anchorage, Alaska

Ralph J. Rivers
Attorney at Law
308 Fifth Avenue
Fairbanks, Alaska

Thomas E. Fenton
Attorney at Law
527 4th St., Rm 202
Fairbanks, Alaska

Howard Staley
Merdes, Schaible, Staley & DeLisio
527 3rd St., 2d Floor
Fairbanks, Alaska

Avrum M. Gross
Faulkner, Banfield, Boochever & Doogan
311 Franklin Street
Juneau, Alaska

Charles Cloudy
Ziegler, Ziegler, Cloudy & Ellis
P.O. Box 1079
Ketchikan, Alaska

Warren Christianson
Christianson & DuBrock
P.O. Box 4
Sitka, Alaska

BAR ASSOCIATIONS

JUNEAU 319 Seward - Thomas Schultz

KETCHIKAN A. H. Ziegler - Box 1079

ANCHORAGE Peter LaBatt

TANANA VALLEY

KENAI

8/29/68 New address Atty 1001 4th Ave

BB

MEMBERSHIP -- ALASKA BAR ASSOCIATION -- JUNE 1, 1968
P. O. BOX 279
ANCHORAGE, ALASKA

ACTIVE MEMBERS

ANNIS, Robert	Box 1211, Juneau
ARNETT, Russell E.	845 West Eighth, Anchorage
ARNOLD, W. C.	Lathrop Building, Anchorage
ATKINSON, Kenneth R.	P. O. Box 271, Anchorage
BABCOCK, William H.	Box A, Sitka
BAILEY, Ernest E.	Box 2693, Ketchikan
BAILEY, William J.	425 G Street, Suite 710, Anchorage
BAILY, Douglas B. 1001	~~941~~ Fourth Avenue, Anchorage
BALONE, Thomas J.	Box 111, Nome
BANFIELD, N. C.	Box 1121, Juneau
BARKER, Leroy J.	941 Fourth Avenue, Anchorage
BARTLETT, Lynn P.	3009 Dawson, Anchorage
BAUMGARTNER, Robert	Seward
BEARD, John R.	[illegible] Christianson Dr., Anchorage
BELL, Bailey E.	3156 East 58th Place, Tulsa, Okla.
BELL, Jesse C. -A W C + Y.	~~445 Ninth Avenue, Anchorage~~ Box 271
BELLAND, Eugene R.	709 Fifth Avenue, Fairbanks Anchorage
BENESCH, George	Route 1, Box 174, Juneau
BENKERT, Ronald G.	430 C Street, Anchorage
BERRIER, Billy G.	210 Admiral Way, Juneau
BIRCH, Ronald G.	Pouch KA, Juneau
BISS, Burton C.	425 G Street, Anchorage
BIXLER, Sidney	Box 1232, Anchorage
BLAIR, James R.	Box 1309, Fairbanks
BLANTON, Thomas B.	R.R. 1, Box 1375, Unit 28, Juneau
BOGGESS, William V.	556 Second Avenue, Fairbanks
BONEY, George F.	825 West Eighth Avenue, Anchorage
BOOCHEVER, Robert	Box 1121, Juneau
BOOKMAN, Bruce	825 West Eighth Avenue, Anchorage
BOYKO, Edgar Paul + Richey	~~Attorney General, Pouch K, Juneau~~ Suite 303 Tysons Bldg - 328 W 4th
BRADLEY, James B.	Box 1211, Juneau
BRADLEY, Richard A.	P. O. Box 594, Juneau
BRINDLE, Alexander W.	1212 Olympic Natl. Life Bldg., Seattle
BRUBAKER, John K.	360 K Street, Anchorage
BRUNDIN, Brian J.	807 G Street, Anchorage
BUCKALEW, Seaborn J.	425 G Street, Anchorage
BULLERWELL, Harris R.	City Attorney, Ketchikan
BURKE, Edmond W.	[illegible] Street, Anchorage
BURR, Donald A. Burr, Pease + Kurtz	825 West Eighth Avenue, Anchorage
BURTON, Edward G.	825 West Eighth Avenue, Anchorage
CALDERWOOD, Wayne D.	845 Eighth Avenue, Anchorage
CALL, David H.	210 Nerland Bldg., Fairbanks

CAMAROT, Henry J.	655 No. A Street, Springfield, Oregon
CARLSON, Victor D.	Box 112, Anchorage
CASSITY, John Glen	211 West Cook Avenue, Anchorage
CHRISTIANSON, Warren	Box 4, Sitka
CHRISTIE, Reginald J., Jr.	Box 1178, Anchorage
CLARK, Murphy Lee	807 G Street, Anchorage
CLASBY, Charles J.	Box 1368, Fairbanks
CLOUDY, Charles L.	Box 1079, Ketchikan
CLOUSE, James R., Jr.	360 K Street, Anchorage
COLE, Charles E.	218 Lavery Bldg., Fairbanks
COLE, Richard R.	216 Lavery Bldg., Fairbanks
COLVER, Warren C.	360 K Street, Anchorage
CONNELLY, Hugh H.	413 Cowles, Fairbanks
CONNOR, Roger G.	425 G Street, Anchorage
CONWAY, John Martin	Box 271, Anchorage
CRADDICK, Donald L.	Box 1121, Juneau
CRANE, Fred D.	Box 160, Nome
CRASKE, Duane K.	Box 1068, Sitka
CREMO, Roger	411 G Street, Anchorage
CREWS, Ralph G.	921 Sixth Avenue, Anchorage
CROFT, Leland C.	425 G Street, Anchorage
CUDDY, Daniel H.	Box 720, Anchorage
CURRAN, Thomas E., Jr.	825 West Eighth Avenue, Anchorage
S.E. + C.	551 1/2 2nd Ave. Fbks
DAVIS, Harland W.	201 Central Building, Anchorage
DELAHAY, Benjamin T.	P. O. Box 127, Fairbanks
DELANEY, James J.	360 K Street, Anchorage
DeLISIO, Stephen S.	P. O. Box 810, Fairbanks
DICKERSON, Mahala A.	1330 East 15th, Anchorage
DICKSON, George A.	360 K Street, Anchorage
DITUS, R. Stanley	P. O. Box 463, Burlington, Colorado
DODDS, Blanche E.	401 - 12th Avenue, Anchorage
DOOGAN, Frank M.	Box 1121, Juneau
DuBROCK, Roger W.	Box 4, Sitka
DUGGAR, Lloyd L.	815 Fifth Avenue, Anchorage
DUNN, Theodore R.	825 Eighth Avenue, Anchorage
Eckert, Richard L. (Deane & Eckert)	
EASTAUGH, Fred O.	Box 1211, Juneau
EDWARDS, G. Kent	Pouch K, Juneau
ELLIS, Peter R.	Box 1079, Ketchikan
ELY, Robert C.	Box 1332, Anchorage
Davidson Sharkey Cummings — ENGSTROM, Allan A.	201 Natl. Bank of Alaska Bldg., Juneau
ENGSTROM, Elton	Box 723, Juneau
ERWIN, Robert C.	807 G Street, Anchorage
ERWIN, William M.	825 West Eighth Avenue, Anchorage
Emmal, Wm. B	101 Polaris Bldg. Fbks.
FARRELL, Martin A., Jr.	542 Second Avenue, Anchorage
FENTON, Thomas E.	527 Fourth Avenue, Fairbanks
FISHER, James E.	Box 397, Kenai
FLEISCHER, Theodore E.	Crawford Building, Anchorage
FORBES, Vernon	531 Fourth Avenue, Fairbanks
FULD, William H.	Box 1178, Anchorage
FRIEDMAN, Martin	ALSEC. 425 G Street, Anchorage
Folta, Richard C	319 Seward St. (Gregg, Kohls & Schultz)

GALLAGHER, Mary S.	2527 Susitna Drive, Anchorage
GALLAGHER, Russel J.	941 Fourth Avenue, Anchorage
GANTZ, Richard O.	807 G Street, Anchorage
GERETY, Daniel	941 Fourth Avenue, Anchorage
GILMORE, James D.	807 G Street, Anchorage
GILMORE, P. J., Jr.	Box 2519, Ketchikan
GLENNON, Edith A.	Box 692, Kodiak
GORSUCH, Norman	Crawford Building, Anchorage
GREENE, William A.	Box 1246, Fairbanks
GREGG, Douglas L.	319 Seward Street, Juneau
GROH, Clifford J.	430 C Street, Anchorage
GROSS, Avrum M.	Box 1121, Juneau
GUCKER, George L.	230 Commercial Bldg., Ketchikan
GUESS, Walter E.	Box 1332, Anchorage
Germain	
HAGLAND, Dorothy J.	360 K Street, Anchorage
HAGANS, Charles W.	Box 1578, Anchorage
HAHN, A. Robert	542 Second Avenue, Anchorage
HAMMOND, Robert	645 G Street, Anchorage
HARRIS, R. Everett	425 G Street, Anchorage
HARTLIEB, Gordon W.	305 Fifth Avenue, Anchorage
HAVELOCK, John E.	700-7th St. S.W., Washington, D.C.
HAWLEY, W. H.	230 Commercial Bldg., Ketchikan
HAYCRAFT, Kenneth C.	415 Farwell, Fairbanks
HAYES, George N.	360 K Street, Anchorage
HELLENTHAL, John S.	P. O. Box 941, Anchorage
HENDRICKSON, John W.	303 G Street, Anchorage
HENRI, Joseph R.	155 S. Seward Street, Juneau
HODGES, F. Jay - S E + C.	551½ Second Avenue, Fairbanks
HOGE, Andrew E.	921 Sixth Avenue, Anchorage
HOLLAND, H. Russel	Box 2085, Anchorage
HOLMES, Michael M.	311 Franklin, Juneau
HOPPNER, Lloyd I.	P. O. Box 516, Fairbanks
HORNADAY, James	Box 397, Kenai
HUGHES, John C.	807 G Street, Anchorage
HOWITT, Stanley	P. O. Box 400, Anchorage
HOUSTON, Clyde C.	805 West Third Avenue, Anchorage
INGRAHAM, Millard F.	Suite C, Nerland Bldg., Fairbanks
IRVINE, John P. + Eckert	506 Sixth Avenue, Anchorage
JACKSON, Barry W.	527 Fourth Avenue, Fairbanks
JACOBS, William H.	~~425 G Street, Anchorage~~ 20 Third St S E Wash D C 20003
JARVI, Kenneth O.	3935 Lynn Avenue #1, Anchorage
JEFFRIES, Johnston	Leiker Building, Soldotna
JENSEN, Kenneth D.	425 G Street, Anchorage
JERNBERG, Robert L.	312 Commercial Bldg., Ketchikan
JEWELL, Allen L.	542 Second Avenue, Anchorage
JOHNSON, Bjorn G.	805 West Third Avenue, Anchorage
JOHNSON, J. E.	P. O. Box 664, Ketchikan
JOHNSON, Maurice T.	Box 1511, Fairbanks

JOHNSTON, James L.	825 West Eighth Avenue, Anchorage
JOHNSTONE, Karl S.	845 West Eighth Avenue, Anchorage
JONES, Paul B.	2527 Susitna Drive, Anchorage
JOSEPHSON, Joseph P.	326 H Street, Anchorage
KALAMARIDES, Peter J.	Box 1346, Anchorage
KAY, Wendell P.	Box 1178, Anchorage
KENNELLY, Cornelius R.	Box 232, Nome
KERNS, Richard P.	1026 Fourth Avenue, Anchorage
KOHLS, Shirley F.	319 Seward Street, Juneau
KOVARIK, Joseph Albert	401-12th Avenue, Anchorage
KURTZ, Lloyd S.	825 West Eighth Avenue, Anchorage
LaBATE, Peter	731 I Street, Anchorage
LAZARUS, Denis R.	845 West Fifth Avenue, Anchorage
LEVINSON, Elinor B. (Miss)	1010 Mendenhall Apts., Juneau
LIBBEY, Robert M.	Box 1178, Anchorage
LOWE, Robert C.	807 G Street, Anchorage
LYTLE, Richard F.	805 West Third Avenue, Anchorage
McCARREY, J. L., Jr.	Box 1333, Anchorage
McCASKEY, Kenneth	921 Sixth Avenue, Anchorage
McCUTCHEON, Stanley J.	430 C Street, Anchorage
McGRATH, Allen	330 L Street, Juneau
McLEAN, Joseph A.	230 Seward Street, Anchorage
McNABB, George B., Jr.	344 East 15th, Anchorage
McNEALY, R. J.	~~326 H Street, Anchorage~~ Box 657 Kenai - 99611
McVEIGH, Richard L.	204 Crawford Bldg, Anchorage
MACKAY, Neil S.	Box 886, Anchorage
MADSEN, Roy H.	Room 2, Brechan Bldg., Kodiak
MAFFEI, Albert	Box 674, Anchorage
MAHONEY, Robert J.	Box 376, Douglas
MANDERS, John E.	Box 1460, Anchorage
MARTIN, Verne O.	~~327 East Sixth Avenue~~, Anchorage 3514 Woodlawn Ln
MATTHEWS, Parren W., Jr.	825 West Eighth Avenue, Anchorage
MERBS, James C.	1026 Fourth Avenue, Anchorage
MERDES, Edward A.	P. O. Box 810, Fairbanks
MERSON, Alan	Univ. of Denver, 200 W. 14th Ave. Denve
MIDDLETON, R. Collin	825 West Eighth Avenue, Anchorage
MILLER, A. Fred	312 Commercial Building, Ketchikan
MILLER, Eugene V.	912 Barnette, Fairbanks
MILLER, Lester W., Jr.	Box 1178, Anchorage
MILLER, Mary Alice (Mrs.)	604 Barnette, Fairbanks
MONAGLE, M. E.	Box 1211, Juneau
MOORE, Daniel A.	360 K Street, Anchorage
MORAN, William J.	Box 1891, Anchorage
MORSE, Mary	1110 Sixth Avenue, Anchorage
MURPHY, Patrick E.	536 Fourth Avenue, Fairbanks
MULDER, Russell	Box 1035 - Juneau
NESBETT, Raymond A.	825 West Eighth Avenue, Anchorage
NIEWOHNER, Edward R.	Suite C, Nerland Bldg., Fairbanks

NORDALE, James D.	Borough Attorney, Soldotna
NOSEK, Francis J.	1026 Fourth Avenue, Anchorage
NOYES, Sherman A.	401 Chena Drive, Fairbanks
OPLAND, Robert N.	329 F Street, Anchorage
PARRISH, Robert A.	536 Fourth Avenue, Fairbanks
PAUL, Frederick	1310-1411 Fourth Ave. Bldg., Seattle
PAUL, William F.	1521 - 16th Avenue East, Seattle
PEASE, Theodore M.	825 West Eighth Avenue, Anchorage
PHILLIPS, Dallas L.	Box 1230, Fairbanks
PLUMMER, William T. 926 3rd	~~Room 205 Central Bldg.~~, Anchorage
POLLOCK, Howard W.	1507 Longsworth House Off. Bldg., Washington, D. C. 20515
POWELL, James M.	807 G Street, Anchorage
PREC, David J.	Box 392, Anchorage 101 Christensen Drive
PRICE, Robert E.	Pouch K, State Capitol, Juneau
RADER, John L.	Box 2068, Anchorage
REASOR, Edward J.	525 Third Avenue, Anchorage
REGAN, Dickerson	819 Gold Belt, Juneau
REHBOCK, Ernest Z.	1648 Alder Drive, Anchorage
REITMAN, Stanley H.	708 Fourth Avenue, Anchorage
RENFREW, William W.	Box 2073, Anchorage
RICE, Julian C.	Box 516, Fairbanks
RICHEY, Kaye Boyko + Richey	~~360 K Street, Anchorage~~ 1281 4th Ave. Suite 28 Datsun Bldg. Anch.
RIPLEY, J. Ju cin	Box 114, Auke Bay
RIVERS, Ralph J.	308 Fifth Avenue, Fairbanks
ROBISON, Paul F.	921 Sixth Avenue, Anchorage
ROSE, Nissel	Box 4-252, Anchorage
ROSS, Herbert	606 Fourth Avenue, Anchorage
ROWLAND, Mark C.	308 G Street, Anchorage
RUBINSTEIN, Michael	4075 Mary Ann Street, Fairbanks
RUDD, Joseph	Box 1332, Anchorage
RUDDY, William G.	P. O. Box 1211, Juneau
RUSKIN, David B.	Box 2073, Anchorage
SAVAGE, John M.	825 West Eighth Avenue, Anchorage
SCHAIBLE, Mrs. Grace B.	P. O Box 810, Fairbanks
SCHULZ, Thomas E.	319 Seward Street, Juneau
SCHWEPPE, A. J.	657 Colman Building, Seattle
SCZUDLO, Walter	500 Second Avenue Fairbanks
SECRIST, Russell J.	Box 1211, Juneau
SHAW, John D.	Box 826, Palmer
SHAYKIN, Richard H.	P. O. Box 1173, Anchorage
SHORTELL, Joseph H., Jr.	City Hall Annex, Anchorage
SIMPSON, Helen L.	645 G Street, Anchorage
SINGLETON, James K.	411 G Street, Anchorage
SNOW, Vernon	497 Douglas Hiway, Juneau
SOUTER, Milton	360 K Street, Anchorage
STALEY, Howard P.	P. O. Box 810, Fairbanks

STEPOVICH, Michael A.	Box 63, Fairbanks
STERN, John M., Jr.	Box 1672, Anchorage
STEVENS, Theodore F.	Box 2085 Anchorage
STRACHAN, John R.	921 Sixth Avenue, Anchorage
STUMP, Wilfred C.-Stumpt Stump	Box 2693, Ketchikan
SVATY, Ronnie	Box 1195, Juneau
TALBOT, Arthur D.	942 Tenth Avenue, Anchorage
TALLMAN, James K.	926 Third Avenue, Anchorage
TAYLOR, Warren A.	Box 200, Fairbanks
THOMPSON, J. W.	Box 217, Kenai
THORSNESS, David H.	807 G Street, Anchorage
TUCKER, Warren A.	425 G Street, Anchorage
TULIN, Charles E.	529 Third Avenue, Anchorage
TUNLEY, Charles R.	606 Fourth Avenue, Anchorage
VOGT, George F.	P. O. Box 2547, Kodiak 99615
WADE, Hugh G.	Box 271, Anchorage
WALTER, Karl L.	Box 400, Anchorage
WALTERS, Benjamin O.	P. O. Box 1564, Ketchikan
WALTON, Peter B.	415 L Street, Anchorage
WANAMAKER, James N.	360 K Street, Anchorage
WARDELL, Thomas M.	Box 2333, Anchorage
WHITE, Albert	126 West Seventh Street, Juneau
WHITE, Hugh B.	845 West Eighth, Anchorage
WHITING, Harrington B.	Pouch K, State Capitol, Juneau
WHITTAKER, Richard L.	107 Stedman Street, Ketchikan
WILES, Eugene F.	360 K Street, Anchorage
WILLIAMS, J. Gerald	220 Central Building, Anchorage
WILSON, Juliana D.	360 K Street, Anchorage
WILSON, T. Stanton	360 K Street, Anchorage
WOHLFORTH, Eric	330 L Street, Anchorage
YANDELL, Robert K.	941 Fourth Avenue, Anchorage
YEAGER, George M.	218 Nerland Bldg., Fairbanks
YOUNG, Joseph L.	Box 271, Anchorage
ZIEGLER, A. N.	Box 1079, Ketchikan
ZIEGLER, Robert H., Jr.	Box 1079, Ketchikan

LaFOLLETTE, Mary	R.R. 2, Box LV150, Lainsburg, Michigan
LaFOLLETTE, Robert A.	322 Leslie, Lansing, Michigan
LaRIVIERE, Peter A.	406 Prospect Street, New Haven, Conn.
LUNDQUIST, Weyman I.	44 Montgomery, San Francisco
McINTOSH, David F.	c/o 2d Coast Guard Dist. 1520 Market Street, St. Louis, Missouri
MASSARI, Frank	6101-A Marina Drive, Holmes Beach, Fla.
MINASIAN, Vasken	Suite 604, Gibralter Tower, Beverly Hills, California
MULDER, Russell	Box 1035, Juneau
MORAN, P. Thomas	9400 Kendale Road, Potomac, Maryland
MULLEN, John F.	Box 1871, Juneau
OLSEN, William	10514 - 15th Avenue N.W., Seattle
PAYNE, Thomas B.	P. O. Box 649, Wrangell, Alaska
PFUND, Southall R.	249 Chestnut Street, San Francisco
RILEY, Burke	P.O. Box 584, Juneau
ROSS, Herman H.	Suite 313, Municipal Bldg., Florence, Ala.
RODERICK, John	700 Building, Anchorage
ROTH, Martin	1634 Sierra Gardens, Roseville, Calif.
SCHIEMAN, Maj. Gordon	4306 B, USAF Academy, Colorado
SMITH, Evander C.	683 McAllister Street, San Francisco
STRINGER, Harold E.	American Legion, 1608 K Street N.W. Washington, D. C.
STROUSE, Donald E.	6 Washington Circle, Alexandria, Va.
SOLL, Herbert D.	c/o American Embassy, Rio de Janerio G.B., Brasil
THURLOW, Gary	6300 Claremont Ave., Oakland, Calif.
TUCKER, Edward W.	825 West Eighth Avenue, Anchorage
TYNER, Dorothy	Box 1080, Anchorage
WADE, Hugh J.	628 Basin Road, Juneau
WALSH, Daniel R.	612 Terrace Street, Carson City, Nev.
WEBB, Lloyd J.	Box 321, Twin Falls, Idaho
WELLS, Johathan G.	Wills Lane, Newburyport, Mass.
WHARTON, Hugh D. III	Box 761, San Francisco
WITTEMYER, John	P. O. Box 1246, Boulder, Colorado
WYND, Gladys Stabler	No. 11, MacKinnon Apts., Juneau
YOUNG, Roger Donald	11505 Soward Drive, Silver Springs, Md.

GEORGE HERRINGTON
ERIC SUTCLIFFE
NATHAN D. ROWLEY
WILLIAM H. ORRICK, JR.
WALTER G. OLSON
WILLIAM D. MCREE
EDWARD E. MITCHELL
SIDNEY E. ROBERTS
JAMES H. BENNET
C. RICHARD WALKER
JAMES F. CRAFTS, JR.
ANDREW DONNET ORRICK
JAMES R. HAYNES
RICHARD C. SALLADIN

RICHARD J. LUCAS
EARLO S. FOWLER
DONALD A. SLICHTER
PAUL A. REBBER
JAMES A. MADISON
DILLMAN C. RINSELL, JR.
WILLIAM L. HOISINGTON
THOMAS A. SHEARER, JR.
CAMERON W. WOLFE, JR.
JOSEPH J. HUGHES
RALPH C. WALKER
H. PETER LILLEVAND
WILLIAM E. DONOVAN

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE
COUNSELORS AND ATTORNEYS AT LAW
ELEVENTH FLOOR
600 MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 392-1122

W. H. ORRICK, 1910
OF COUNSEL

CABLE "ORRICK"
TELEX 34-0973

February 27, 1973

Mr. R. D. Stevenson
Acting Commissioner of Revenue
State of Alaska
Pouch S, Alaska Office Building
Juneau, Alaska 99801

Re: Committee Substitute for House Bill No. 18

Dear Bob:

In response to your letter of February 21:

Committee Substitute for House Bill No. 18 is substantially improved as compared with the original version of the bill, which I commented on in my letter of January 19. I believe that the authorization of general obligation bonds could proceed more efficiently if the amendments proposed by the bill, even in its present version, were not adopted. However, I believe that I can understand the arguments for a bill of this kind, and it is considerably less objectionable than the initial version.

I do have the following specific comments as to CSHB 18:

1. I think that one possible source of problems could be eliminated by changing section 1 (proposed AS §15.15.040(b)) so as to indicate that the "statement of the scope of each major project" to be issued or made available by the Lieutenant Governor is to be the same statement as that included in the authorization bill pursuant to section 3 (proposed AS §24.30.037). I see no point in authorizing or permitting the Lieutenant Governor to prepare or issue a statement different from that already included in the bill by the Legislature. Variations between the two statements would simply lead to unnecessary problems. Moreover, I can imagine a future Legislature adopting a bond authorization act which does not include any statement of scope, in which case I think it would be best not to require or permit the Lieutenant Governor to prepare a statement without definite knowledge as to what the Legislature intended.

2. I suggest that the last several words of section 2 (proposed AS §24.20.201(a)(8)) be deleted. These words seem to contemplate the possibility of a "transfer

of general obligation bond funds to projects not authorized in the bond issue." I believe that any such transfer would ordinarily be contrary to Article IX, Section 8, of the Constitution. If the voters have authorized bonds for particular capital improvements, e.g., highways (and particularly if the scope of each major project included has been described to them in a statement accompanying each sample ballot, as required by the bill), the funds derived from those bonds should not be transferred to projects which were not authorized by the voters, e.g., airports.

In the same section, in line 17, "authorized" seems to me to be the wrong word. I would suggest changing "funds authorized in" to "funds derived from" or "the proceeds of."

3. I still believe that section 3 can not bind future Legislatures, and that it will constitute only a recommendation or suggested rule of procedure.

Sincerely yours,

C. Richard Witkin

cc: Mr. Kenneth W. Kadow
Mr. Joseph R. Henri
Miss Donna D. Spragg
Mr. Terrance Adlhock

HB 33

PHONE 586 21 4
OR 586 250

DR. ROY A. BOX and DR. GILBERT H. KEMP
OPTOMETRISTS
611 WILLOUGHBY AVENUE • [illegible]

March 21, 1973

Testimony by Dr. Roy A. Box, O. D.
President Alaska Optometric Association

RE: Committee Substitute for H B 33

Mr. Chairman, Ladies and Gentlemen of the Committee:

There are several ways to approach licensure of tradesmen such as opticians. In order to put licensure in its proper prespective I think we ought to realize that licensing of health care persons is primarily intended to protect the patient and not the person dispensing the care. With that in mind the first question that arises should be: Does the person who purchases glasses from an optician require any additional protection? The Food and Drug Administration and the State of Alaska require that all lenses dispensed by opticians, ophthalmologists and optometrists be case hardened so no additional protection is needed there. The law also prescribes what type of plastic can be used in spectacle frames so that the opticians customer does not end up with a frame made of highly inflamable materials. There is no existing proof that an improperly ground or prescribed set of lenses actually causes any physical damage or physical change to the eye or the visual system. The person that receives an improperly made pair of glasses either wears them with discomfort or returns to the prescribing doctor or the optician he purchased the glasses from and has the error remedied. We are now back to the question how does the public benefit as a result of licensing dispensing opticians? If we examine this legislation maybe the benefits are not intended for the public benefit but intended to protect dispensing opticians from competition.

Page 2, line 27 of the bill states "at the discretion of the Board the examination may test orally, in writing or otherwise, knowledge and skills of any or all of the following subjects". If the board has the discretion to give any or all tests in a licensing examination then how do the Board members determine which test to give which applicant unless they in fact decide ahead of time which applicant is going to pass the test and which applicant is not going to pass the test.

PHONE SK 2135
OR SK 2511

DR. ROY A. BOX and DR. GILBERT H. KEMP
OPTOMETRISTS
611 WILLOUGHBY AVENUE • JUNEAU, ALASKA 99801

Page 3 under Qualification of Applicants for Examination is so broad that these qualifications could include or exclude practically any optician who makes application to take the Board. An example of this is the dispensing optician who works in our office who has never worked for another optician but has had experience in all phases of opticianary in the Army, in an optometric practice in Montana, and in our optometric practice, I am sure this man is as knowledgable concerning the trade of opticianary as any optician in Alaska, and yet could not qualify to take the examinations for opticians as they are stated in this Bill. Page 3, line 18B states at least 10,000 hours as a practicing optician in good standing, and yet makes no definition of what an optician in good standing is. Most states in the United States do not license opticians and yet it is reasonable to assume that an optician from a state that does not license opticians would be just as adequate and skilled as an optician from a state that does license them, so again the law is very vague and allows the Board to much discretion in who they shall or shall not accept for examination for licensure. What is a passing grade on the Examination? Page 4, line 5, section C states that if a license remains lapsed for more than one year the Board may require the applicant to be examined again under section 90 of this chapter again this bill seems intentionally vague and the Board either should require any person whose license remains lapsed for more than one year to retake the examination or not require any one to retake the examination but charge a penalty fee. Page 4, line D states that before a license may be renewed the licensee shall submit to the Board evidence of 15 hours of continuing competency in optical dispensing as prescribed by regulations of the Board and yet in one of his recent news letters Mr. Lambert suggested that credit for continuing competency in optical dispensing could be allowed if the dispensers attended an organizational meeting with an opticians organizer from California. I fail to see how opticians attending an organizational meeting could learn any competency in opticianary. Page 4 starting with line 19 the section dealing with dispensing opticians apprentice paragraph has confusing wording wherein it says a licensed physician, optometrist, or dispensing optician can designate an apprentice being trained but in the same sentence says that the training shall be under the direct supervision of another dispensing optician. It has allways been my understanding that a person on a higher skill level could reasonably be qualified to train person for an occupation at a skill lower than theirs as long as the services they provide include the skills of the person being trained and this happens to be very true in the case of an optometric practice where an optometrist could easily train a person to become a dispensing optician. Page 6 article 4 General Provisions includes an article to allow persons to obtain opticians license under a grandfather clause has absolutely no requirements for past experience and does not require any demonstration of competency in the feild. This would certainly seem to me to be a weak portion of this Bill and should be written so that the person receiving a license under the grandfather clause should have at least the same amount of training and knowledge as the person entering the State who desires to become licensed as an optician. This type of language could have easily been written into this Bill and yet was not.

PHONE 586 2135
OR 586 2501

DR. ROY A. BOX and DR. GILBERT H. KEMP
OPTOMETRISTS
611 WILLOUGHBY AVENUE • JUNEAU ALASKA 99801

Page 7, line 29 is probably the most important sentence in the entire legislation and would allow a layman to assume professional responsibility for which he is not trained. There is no requirement to show competency under this act to fit contact lenses. Courses given by contact lens companies do not provide adequate training in this field and usually are a sales type of program. The fitting of contact lenses requires a high degree of professional skill and knowledge which in my opinion can not be learned by the apprenticeship method. If you will examine the previous testimony presented to the Health and Welfare Committee concerning the fitting of contact lenses it is considered to be a mechanical process by the optician the same as assembling a pair of glasses is a mechanical process. Any time a person who attempts to adapt a foreign body to the tissue such as the cornea which has a highly complex and sensative system of metabolism considers this a mechanical process there is demonstrated lack of appreciation for the function of this tissue and certainly a lack of sophistication in the approach to the problem. The problem of who shall fit contact lenses is further complicated by a relatively complex form of contact lens fitting called Ortho Karatology. This is a rapidly developing field wherein a series of contact lenses are fit over a period of time to reduce refractive errors. The practioner who fits contact lenses to purposely change the shape of the anterior segment of the eye, the cornea, must be a well trained highly skilled individual. Do the opticians intend to engage in this field of contact lens fitting if this bill is passed as it is presently written.

If this legislation were rewritten to eliminate some of discrepancies so that who may and may not take the examination for opticianary and the requirements for examination were specifically stated so that there is no opportunity by the Board of Opticianary to decide who is and who is not qualified to take the examination, and; if the grandfather clause were written so that the persons granted licensure under the grandfather rights had at least the same qualifications as the person applying for licensure then it approaches a point where it would be acceptable to the profession of optometry. This legislation certainly is also not acceptable if the opticians with no academic training or background in the feild of health care is allowed to engage in the art and science of contact lens fitting because he considers a contact lens a highly valuable piece of merchandise.

When licensure is granted to barbers, beauticians, etc. they must meet specific academic requirements and their training is uniform through out the nation as is the training for the major health care professions. This legislation does not require any uniformity of training which in my opinion is vitally necessary if the State is going to license opticians as a group of people. No other profession or licensed vocation presently has this latitude in our State.

*If the grandfather right clause is held in its present form I could apply for license? After all I have past experience in your office and we have a lab. Gayle Bodda

TO PROTECT THE PUBLIC BY LICENSING TRAINED OPTICIANS, WE THE UNDERSIGNED

URGE YOU TO PASS "OPTICIANS LICENSING BILL", H.B. 33

Name	Date	Name	Date
Randy L Andrews	2/15/73	Randal J Hiett	3/6/73
Tommy R. Walters	3/1/73	Myrtle R Dorn	3/5/73
Shelbyene B Anderson	3-1-73	[illegible]	3/5/73
Rod Sanborn	March 3RD 1973	[illegible]	3/5/73
[illegible]	3-4-73	[illegible]	3/6/73
Corky Brannon	3-3-73	Woodrow K Brandon	3/9/73
[illegible]	3-3-73	Marlaine E. Keller	3/9/73
M Williams	3-3-73	James Blackford	3/9/73
Ruth Peterson	3/3/73	Blayne Adams	3/10/73
[illegible]	3/3/73	[illegible]	3-10-73
[illegible]	3/3/73	M. Faye Dorn	3-10-73
David W Boyer	3/3/73	Patricia L Anderson	3-10-73
Keith W Wood	3/3/73	Mrs Day	3-11-73
Harold Green	3/3/73	Linda Day	3-11-73
J W Elmore	3/5/73	E. Burdett	3/10/73
[illegible]	3/3/73	Pamela E Sanders	3-10-73
Donald L Jamison	3/7/73	John Spencer	3-10-73

TO PROTECT THE PUBLIC BY LICENSING TRAINED OPTICIANS, WE THE UNDERSIGNED

URGE YOU TO PASS "OPTICIANS LICENSING BILL", H.B. 33

Name	Date	Name	Date
Jean M. Zimmerman	2/27/73	Peggy Novacinski	2/3/73
Walter Jelks	2-27-73	Tina M Schnell	
Carne L Bingham	2-27-73	Margaret M. Rutherford	
Joyce Hampton	2/27/73	Helen C. Mahler	
Paul S. Lein	27 Feb 73	Darlene M. Appel	3/6/73
Mary Ellen Applehans	2/28/73	Mrs. L. N Anderson	
Mrs. K. E. McCready.		Rachel Strong	
Lillian W. Miller	3/1/73	Betty J. Bell.	
A W Vanderwood		Helen L Cartwright	
Dale Brooks			
Wm L Pettit	3-2-73	Dorothy N. Sewell	
Roy Blackburn	3/2/73	Wake T. Sewell	
Roger Thos Wagoner		Barry Jackson	
George L Watson	3/2/73	D W Hobbs	
Clyde T Wilson	3/2/73	C Schenck	3-8-73
Betty Turner	3/2/73	Jos Robinson	3-8-73
Conrad C Nunn	3/3/73	Tim Sears 3-8-73	
Virginia Grace Burns	3/4/73		

TO PROTECT THE PUBLIC BY LICENSING TRAINED OPTICIANS, WE THE UNDERSIGNED

URGE YOU TO PASS "OPTICIANS LICENSING BILL", H.B. 33

Name	Date	Name	Date
Larry E. Rogers	2/14/73	Sharon J. Clawson	2-21-73
Bernadette D. Wilson	2/14/73	Beatrice A Pauley	2/21/73
Shirley Zimmerman	2/19/73	Jean Lumiata	2/22/73
Martha McKay	2/19/73	Thomas E Hudnutt	2/27/73
Harold E McKay	2/19/73	Lyle P Lewis	
Janette L. Voss	2/19/73	Judith E Day	2-28-73
Wanda Lewis	2/19/73	Vernon H Davis	2-28-73
W. Burton Jones	2-19-73	Roxanna Simpson	3-1-73
Helen M. Newlon-Snow	2-19-73	Viola L. Stansell	3-1-73
Richard Waller	2-19-73	Charles Stansell	3-1-73
Frank E Snow	2-20-73	Mrs Barbara Stansell	3-1-73
Wanda K Harris	2-20-73	[illegible] Smith	3-1-73
Dan Clausen	2-20-73	Steve Ellis	3-1-73
Randy Harris	2-20-73	L C Morgan	3-8-73
Diane Downs	2-20-73	M E Morgan	3-8-73
Margie Vest	2-20-73	[illegible] Simpson	3-8-73
Linda Scott	2-20-73	Sylvia Rammer	3-9-73

TO PROTECT THE PUBLIC BY LICENSING TRAINED OPTICIANS, WE THE UNDERSIGNED

URGE YOU TO PASS "OPTICIANS LICENSING BILL", H.B. 33

Name	Date	Name	Date
Mark J. Lower	2-14-73	Mrs. C. G. Willhite	2-22-73
Lloyd Slagle	2-14-73	Vicki Willhite	2-22-73
[illegible]	2-14-73	Edward F. Pico	3-1-73
[illegible]	2-15-73	Suzanne Pico	3-1-73
Margaret Kaye	2-16-73	Thomas Pico	3-1-73
[illegible]	2-15-73	[illegible]	3-2-73
[illegible]	2-15-73	[illegible]	3-2-73
[illegible]	2-15-73	Jeff Hansen	3/3/73
[illegible]	2-15-73	Mrs. Judy Harper	3/3/73
[illegible]	2-15-73	Manuela Lower	3/5/73
[illegible]	2-15-73	[illegible]	[illegible]
[illegible]	2-15-73	[illegible]	3/10/73
Karen H. Lower	2-15-73	Theresa Thurston	3/10/73
Cathy Kelly	2-15-73	Trudy Thornton	3/10/73
Donald MacLeod	2-16-73	Jack H. Griffith	3/12/73
Shirley S. Rogers	2-16-73	Robin Richardson	3-12-73
Jimmie Yeagle	2-16-73	G. Kay Castle	3-12-73

DR. ED CRAIG
OPTOMETRIST
348 MAIN STREET
KETCHIKAN, ALASKA 99901

DIAL CA 5-3975

HB 33

January 15, 1973

Senator Robert Ziegler
Baranof Hotel
Juneau, Alaska 99801

Re: The Alaska State Association of Dispensing Opticians
(Purposed bill to be introduced) No.33

Dear Senator Ziegler:

In my opinion the proposed optician bill should not be passed. The opticians have no right to ask the state to grant them a license, which allows them to perform professional acts, such as adapting eyeglasses and contact lenses to human beings.

I have been a practicing optometrist in this state since 1954. Prior to that, I completed five years of education at an accredited optometry college. The optometric curriculum includes Ocular Anatomy, Pathology, Pharmacology, Physiology, Bacteriology and Chemistry. I am required to obtain post-graduate education each year to maintain my Alaska license. I am also licensed in the state of Washington.

The optician is a layman and has no formal degree from any accredited institution. They have very little understanding of Physiology or Anatomy of the eye, and therefore, are not qualified to detect systemic diseases which are related to the eye or detect simple common diseases of the eye.

I do not believe it is good professional practice to examine a patients eyes and give them a written prescription to be filled by someone else. Herein lies a vast division of responsibility. If the patient is not satisfied to whom does the patient go—to the person giving him the prescription or the optician? In many cases it is only after a great expense and time spent that the patient finally is satisfied. The patient usually ends up going to an optometrist for an eye examination and fitting of his glasses or contact lenses; this the optometrist does in his office to the patients satisfaction.

(cont. page 2)

DR ED CRAIG
OPTOMETRIST
[illegible] MAIN STREET
KET[illegible]AN, ALASKA 99901
[illegible] CA 5-3975

The problem has been created by the ophthalmologist who after examining their patients usually gives them a prescription containing only the spectacle lens powers. The patient takes this to an optician who either fills the prescription for eyeglasses or contact lenses, if the patient chooses, then the optician takes the corneal curve measurements, determines the rest of the factors to compound the contact lenses also using the lens powers from the prescription. In many cases the ophthalmologist never sees the patient again and the patient finds himself dealing directly with the optician, who fits the glasses or contact lenses. Therefore, the optician is acting and performing professional acts without any formal training or supervision.

I sincerely hope that in the best interests of the general public this proposed bill is never introduced or passed.

Very truly yours,

Ed L Craig, O.D.

ELC:gs

cc: [illegible]
C.L. Louie-Spencer
Thomas, Chairman [illegible], Welfare & Education, Senate
[illegible], Chairman, Health, Welfare & Education, House
Dr. Roy Cox, Juneau, Alc.

THE ALASKA STATE ASSOCIATION
OF DISPENSING OPTICIANS
P.O. BOX 92
Anchorage, Alaska 99501
Phone 279-1511

Optical dispensing is very much connected with the medical eyecare field and has existed since physicians began prescribing corrective glasses. Like pharmacy, it will continue to exist as long as prescriptions are written by medical men; but unlike pharmacy, in Alaska today there is no regulation, control, or prescribed standards concerning dispensing opticians.

In order that the need for this bill may be appreciated and its purpose understood, this pamphlet has been prepared for your information and assistance.

After you have read it I will welcome your comments, suggestions, and criticisms of the bill. If you have any questions about its contents, I will be glad to answer them.

Very truly yours,

Alaska Association of Dispensing Opticians

Philip A. Lampert
President

THE ALASKA STATE ASSOCIATION
OF DISPENSING OPTICIANS
P. O. Box 92
Anchorage, Alaska 99501

The Alaska State Association of Dispensing Opticians would like to present the following:

Before it is shown where the optician is a very much needed part in the ophthalmic community, certain definitions of the different classes of people involved in furnishing eyecare and eyeglasses need to be made.

The ophthalmologist, who may also be called an eye physician, is a medical doctor specializing in the surgical and medical care of the eyes. His practice also includes routine examinations for the detection of visual errors.

The basic function of the optometrist is to examine eyes and to detect visual errors. He screens for certain eye disorders, but does not treat them. As a general rule, optometrists sell the eyeglasses which they prescribe.

The dispensing optician does not examine eyes. He is, however, a member of the ophthalmic team because the desired effect of the lenses prescribed is realized only when the prescription is correctly interpreted and the eyeglasses properly designed and dispensed. The dispensing optician is a person

a. Who fills prescriptions of physicians or optometrists for ophthalmic lenses;

b. Who, in interpreting such prescriptions, takes measurements

to determine size and shape of lenses, frames or lens forms best suited to the wearers' needs;

c. Who repairs and reproduces previously prepared ophthalmic lenses and frames;

d. Who prepares and delivers work orders to technicians engaged in grinding lenses and fabricating eyewear;

e. Who verifies the accuracy of ophthalmic lenses; and

f. Who adjusts and dispenses lenses, specially fabricated optical devices, frames and accessories to the intended wearer.

In dispensing contact lenses pursuant to a prescription, the dispensing optician performs one or more of the following functions:

a. Measures the curvature of the front surface of the cornea of the eye with the aid of a keratometer, ophthalmometer, or other similar device;

b. Fits and adapts contact lenses, with or without the use of trial lenses or fluorescein, and dispenses contact lenses to the intended wearer;

c. Instructs the intended user in the proper use and handling of contact lenses.

In the light of this background, it seems strange that we should require that only qualified physicians or optometrists prescribe lenses, but, at the same time, allow anyone to fill these prescriptions. It goes without saying that it accomplishes nothing to have a good prescription unless it is properly filled.

This fact is recognized in other fields of medicine. IT WOULD BE UNTHINKABLE BY TODAY'S STANDARDS TO PERMIT PHARMACISTS TO FILL THE PRESCRIPTIONS OF PHYSICIANS WITHOUT THE PHARMACIST FIRST HAVING MET

ACCEPTED STANDARDS OF TRAINING AND EXPERIENCE. Likewise, no one would question the necessity for having these qualifications made certain by operation of law. Any other view would not be in keeping with our present-day standards for the protection of the public.

It is equally unthinkable by our present day standards to allow unqualified opticians to come into our state and attempt to fill prescriptions for the public.

To assure the public that qualification by special training is needed as a standard of competency in ophthalmic dispensing, there have been requirements written into our proposed bill, so that the written prescription may be filled in a competent manner.

How is the public to know which optician is qualified and which is not? Obviously, a patient has neither the time nor the means to investigate the background and training of an optician before taking a prescription to him; therefore, without a licensing law for opticians in this state, the public has no real means of protecting itself. Instead, it must look to the Legislature for protection, just as it has had to do with respect to other professions involving public health.

There should be no legislative objection to a bill of this kind, since it helps the public without depriving any competent person of the right to engage in this profession.

It will also insure that a doctor's prescription will be properly filled, and for this reason the bill has the wide indorsement of the eye physicians in Alaska.

Neither should the bill incur opposition from the optometrists, since it would not infringe upon their profession in any way. On the contrary, they should welcome it. The optometrists themselves have been waging a fight within their own profession to eliminate unfair

advertising and since they, unlike physicians, often fill their own prescriptions and fit the glasses themselves, they can hardly hope to eliminate abuses in their own profession as long as they must compete with opticians who are not governed by dispensing laws.

In hope that Alaska will continue in the same progressive manner our Legislature has shown in the past with respect to similar legislation, a bill to license opticians will be introduced in the forthcoming legislative session.

There can only be one fair answer to this entire issue and that is for this Legislature to act to protect and safeguard the best interests of the people of the State of Alaska by helping to regulate this profession which has so direct a bearing on public health.

CHAPTER 08.73

DISPENSING OPTICIANS

Sections

A BILL

For an Act entitled: "An Act relating to the licensing of dispensing opticians".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

CHAPTER 73 DISPENSING OPTICIANS

Sec. 3 as 08.72.110 is amended to read:

08.73.010 LICENSING - EXEMPTIONS - LIMITATIONS. Nothing in this chapter shall

(1) be construed to limit or restrict a duly licensed physician or optometrist or employees working under the personal supervision of a duly licensed physician or optometrist from the practices enumerated in this chapter, and each such licensed physician and optometrist shall have all the rights and priviledges which may accrue under this chapter to dispensing opticians licensed hereunder;

(2) be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory or shop;

(3) be contrued to prohibit an unlicensed person from engaging in the sale of eyeglasses, spectacles, magnifying glasses, goggles, sunglasses, telescopes, binoculars, or any such articles which are completely preassembled and sold only as merchandise;

(4) be construed to authorize or permit a licensee hereunder to hold himself out as being able to, or to offer to, or to undertake to attempt by any manner of means, to examine or exercise eyes,

diagnose, treat, correct, relieve, operate or prescribe for any human ailment, deficiency, deformity, disease or injury.

08.73.020 DEFINITIONS. The term "director" wherever used in this chapter shall mean the director of licenses of the State of Alaska. The term "apprentice" wherever used in this chapter shall mean a person who shall be designated an apprentice in the records of the director at the request of a physician, registered optometrist or licensee hereunder training and under direct supervision in the work of a dispensing optician. The term "board" wherever used in this chapter shall mean the board of dispensing opticians.

08.73.030 DISPENSING OPTICIAN. A dispensing optician is a person who prepares duplications of, or prepares and dispenses lenses, spectacles, eyeglasses, artificial eyes, and or appurtenances thereto to the intended wearers thereof on written prescriptions from physicians or optometrists, and in accordance with such prescriptions, measures, adapts, adjusts and fabricates such lenses, spectacles, eyeglasses, artificial eyes, and or appurtenances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eye. Provided, however, that contact lenses may be fitted with a written prescription in conjuction and under the supervison of a physician or an optometrist.

08.73.040 PRACTICING WITHOUT A LICENSE---PENALTY. It shall be a gross misdemeanor for any person to practice as a dispensing optician without a license or while his license is suspended or revoked.

08.73.050 EXAMINATION ISSUANCE AND DISPLAY OF LICENSE. To be licensed as a dispensing optician a person shall pass an examination given by the board, all examinations shall include, but not be limited to, the following subjects: oral, written and practical, ophthalmic

material and technical laboratory, elements of optics, ophthalmic dispensing, contact lenses, technical math and physics, anatomy and physiology of the eye, dispensing business concepts, and communication skills. The board shall offer an examination at least twice a year. Examinations shall be so administered that one who grades the written part of the examination does not know whose paper he is grading. The director shall license successful examinees and the license shall be conspicuously displayed in the place of business of the licensee.

08.73.060 QUALIFICATIONS FOR EXAMINATION. A person is entitled to take the examination who

(1) is at least 18 years of age.

(2) has been graduated from a secondary school approved by the board.

(3) is of good moral character.

(4) is a United States citizen or has dully declared intention of becoming a citizen of the United States.

(5) has either

(a) completed at least 6000 hours training as an apprentice, or

(b) been engaged for at least five years as a practicing optician in good stading in another state or the District of Columbia.

(6) has paid the required examination fee.

08.73.070 FEES. The following fees shall be imposed under this chapter where applicable:

(1) Examination fee.....$25.00

(2) Initial dispensing opticians license fee.....$50.00

(3) Biennial renewal fee.....$25.00

08.73.080 RENEWAL OF LICENSE. A licensed dispensing optician shall renew his license biennially with the Department of Commerce on or before the date set by the department under AS 08.01.100.

(1) If the license is not renewed on or before that date it shall lapse. A penalty of $10.00 shall be charged in addition to all delinquent fees, for reinstatement of a license which remains lapsed for more than 60 days.

(2) If the license remains lapsed for more than one year, the board may require the applicant to take and pass the examination given under 08.73.050, of this chapter.

(3) Continuing Education -- to be determined by the board.

08.73.090 REVOCATION OR SUSPENSION OF LICENSES -- GROUNDS. A license may be suspended or revoked when a licensee:

(1) has been convicted of a felony involving moral turpitude; or

(2) is addicted to the use of alcohol or any drug; or

(3) has used advertising, whether printed, radio, display, or of any other nature, which is fraudulent, misleading or inaccurate in any material particular, or misrepresents in any way any goods, services or credit terms, values policies, services or the nature of form of the business conducted; or

(4) has practiced fraud or deception in his application for or in his examination for license; or

(5) has used the word "licensed", "registered", or any of their synonyms publicly, except as provided in Sec. 08.73.050; or

(6) has displayed or published directly or indirectly by any means, a price, terms of payment, or a discount or a policy or practice of generally underselling competitors, or any reference to the benefits available to the subscribers to any prepaid health plan; or

(7) has participated in the division, assignment, rebate or refund of fees to a physician or optometrist in consideration of patient referals; or

(8) has bartered or given away as premiums in any manner either on his own account or as agent or representative for any other person, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

(9) has advertised the "free examinations of eyes", "free consultation", "consultation without obligation", "free advice", or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising"; or

(10) has employed either directly or indirectly, any person commonly known as "cappers" or "steerers" to obtain business; or

(11) has solicited, or employed any person to solicit from house to house; or

(12) has used advertising offering a service to the public for which he is not licensed hereunder: Provided, that nothing in this section shall prohibit the optician from advertising merchandise for which the license which is the subject of this chapter is not required; or

(13) has engaged in a group contact for the duplication of eyeglasses or spectacles without a written prescription from an optometrist or physician; or

(14) has advertised the services of any other segment of the healing arts.

08.73.100 DISPENSING OPTICIANS APPRENTICE.

(A) A person may be employed by a licensed dispensing optician as an apprentice. No apprentice may be employed under this section for longer than six years unless the board determines that an apprentice is prevented by circumstances beyond his control, from obatining a

license as a dispensing optician within that time.

(B) Each retail store must have at least one licensed optician.

(C) No more than two apprentices may be under the direct supervision of each licensed dispensing optician at the same time.

08.73.110 CREATION OF BOARD AND MEMBERSHIP. There is created the Board of Dispensing Opticians, consisting of three licensed dispensing opticians as members appointed by the governor.

08.73.120 TERM OF OFFICE. Board members serve a term of three years. The first members shall be initially appointed for one, two, and three year terms.

08.73.130 QUALIFICATIONS FOR BOARD MEMBERS. A board member shall be a licensed, practicing dispensing optician residing in the state.

08.73.140 POWER OF BOARD TO PROMULGATE REGULATIONS. The board may promulgate regulations:

(1) not in conflict with the laws of this state, necessary or advisable to carry out the provisions of this chapter, and which help to assure the competency of dispensing opticians and prevent conduct on their part which would tend to do harm to the visual health of the public;

(2) necessary to govern the practice of dispensing opticians;

(3) specify the subject matter to be covered in an examination for dispensing opticians.

08.73.150 EXISTING DISPENSING OPTICIANS. Within two months after the effective date of this Act, a person who has been engaged in the practice as a dispensing optician for a period of not less than six month, immediately preceding the effective date of the Act upon payment of a fee of $50.00 and a certification to the board, under

oath, that he is of good moral character, shall be issued a license without examination.

Sec. 4 AS 44.62.330 is amended by adding a new paragraph to read:

(34) BOARD OF DISPENSING OPTICIANS

Alaskan Opticians, Inc.
2820 "C" Street
Anchorage, Alaska

February 7, 1973

The Honorable Clem Tillion
Member of House of Representatives
c/o State Senate Building
Juneau, Alaska 99801

My dear Mr. Tillion:

We are aware of the fact that you have a very busy schedule trying to do the right thing for all Alaskans but we hope you will be able to give a few minutes of your time to considering our thoughts on the subject of the licensing of dispensing opticians, which will soon be brought before the legislature.

We are personally opposed to parts of the new bill for the Alaska State Association of Dispensing Opticians. We agree that it is necessary for opticians to be licensed, but certain parts of the new bill do not pertain to licensing at all. The part to which we refer reads as follows:

> 08.71.090 Revocation or Suspension of Licenses -------Grounds. A license may be suspended or revoked when a licensee:---------- (6) has displayed or published directly or indirectly by any means, a price, terms of payment, or a discount or a policy or practice of generally underselling competitors, or any reference to the benefits available to the subscribers to any prepaid health plan; or---

Our feeling is that this discourages other opticians from entering the field and competing with large organizations. I personally feel that every employee of mine should have the same opportunity that I had to go into business for myself I cannot agree that just a select few should have the privilege of going into business, or at least trying to.

It is a known fact that more glasses are sold when you are able to advertise prices. I have been in business for five years myself and I am willing to give up a "piece of my pie" so that someone else can go into the business also. This great country of ours thrives on competition and we need more competition in all fields. I feel it is my constitutional right to tell the world about my product and what I want to sell it for.

Continued

I would like to testify, if need be, on this part of the bill whenever the issue comes up.

Very Truly Yours,
Alaskan Opticians, Inc.

John W. Greiff

John W. Greiff
President

Enc: 1

HB 33

DR. CURTIS M. JOHNSON
OPTOMETRIST
530 SEVENTH AVENUE
FAIRBANKS, ALASKA 99701

Telephone 456-4010

January 25, 1973

Dr. Helen Beirne, Chairman
Health, Welfare And Education
Pouch V'
Juneau, Alaska 99801

Dear Dr. Beirne;

The following background material is submitted in regard to House Bill No. 33 which is currently in your committee. I would like to request at this time that if and when you hold hearings on this bill that I be notified so I can come to Juneau and testify against this bill.

As I see it the main thrust of this bill is to allow opticians to fit contact lenses because the rest of the bill is so vague it accomplishes nothing. We already have two groups of practicioners specifically educated, trained and licensed to fit contact lenses in this state, namely optometrists and ophthalmologists. There are presently 16 optometrists and at least 6 ophthalmologists who are prescribing and fitting contact lenses in Alaska. This is more than an adequate number of practicioners in this limited field and gives the public a wide choice of competant, licensed doctors. This bill would give opticians the right to fit contact lenses with no formal educational requirements and would be a disservice to the public.

There is no logical analogy between pharmacists filling drug prescriptions and opticians handling spectacle prescriptions. The pharmacist must have six years of academic education beyond high school and be licensed before they can practice their profession. An improperly used drug can have a much more serious effect on the patient than an improperly fit spectacle lens. Serious illness and death may result if the wrong drug is furnished. Proponents of this legislation have shown no instances of harm to the eye health of any person because of the absence of a licensure law for dispensing opticians.

Dispensing opticians are not medical assistants under medical supervision as they would lead you to believe. They are merchants on the street corner and in the shopping centers. This bill does not place them under supervision, it would merely license them where they are. The licensing laws of the health professions are in reality regulatory laws designed to protect the public from unqualified practicioners. This bill would give the optician the stature of licensure but would do nothing to regulate them since there are no educational requirements. The only requirement is an apprenticeship program and apprenticeship in the health care field

HB 33

DR. CURTIS M. JOHNSON
OPTOMETRIST
530 SEVENTH AVENUE
FAIRBANKS, ALASKA 99701

Telephone 456-4010

went out fifty years ago.

The Federal Food and Drug Administration has set out very specific guidelines concerning what types and quality of spectacle lenses and frames can be used by anyone dispensing eyewear to the public so the public is well protected in this area by federal law.

Opticians are currently licensed in one form or another in 17 states, the last law being passed in 1957. In three of these states they cannot fit contact lenses at all and in several others they can only perform this function under the direct supervision and personal presence of a physician or optometrist. Nine other states have either Attorney General's opinions or laws which prohibit opticians from fitting contact lenses. Several states have no opticians at all. In the remaining states an opticians licensing bill has been introduced virtually every year since 1957 but the various state legislatures, in their wisdom, have turned the proposition down each time.

It is my hope that this bill will not come out of committee.

Sincerely,

Curtis M. Johnson, O.D.
President, Alaska State
Board of Examiners in Optometry

cc: Rep. Hackney

Alaskan Opticians, Inc.
2920 "C" Street
Anchorage, Alaska

February 9, 1973

The Honorable Helen Beirne
Member of House of Representatives
c/o State Senate Building
Juneau, Alaska 99801

My dear Mrs. Beirne:

We are aware of the fact that you have a very busy schedule trying to do the right thing for all Alaskans but we hope you will be able to give a few minutes of your time to considering our thoughts on the subject of the licensing of dispensing opticians, which will soon be brought before the legislature.

We are personally opposed to parts of the new bill for the Alaska State Association of Dispensing Opticians. We agree that it is necessary for opticians to be licensed, but certain parts of the new bill do not pertain to licensing at all. The part to which we refer reads as follows:

> 08.73.090 Revocation or Suspension of Licenses -------Grounds. A license may be suspended or revoked when a licensee:--------- (5) has displayed or published directly or indirectly by any means, a price, terms of payment, or a discount or a policy or practice of generally underselling competitors, or any reference to the benefits available to the subscribers to any prepaid health plan; or---

Our feeling is that this discourages other opticians from entering the field or competing with large organizations. I personally feel that every employee of ours should have the same opportunity that I had to go into business for myself. I cannot agree that just a select few should have the privilege of going into business, or at least trying to.

It is a known fact that more glasses are sold when you are able to advertise prices. I have been in business for five years myself and I am willing to give up a "piece of my pie" so that someone else can go into the business also. This great country of ours thrives on competition and we need more competition in all fields. I feel it is my constitutional right to tell the world about my product and what I want to sell it for.

Continued

I would like to testify, if need be, on this part of the bill whenever the issue comes up.

Very truly yours,
Alaskan Opticians, Inc.

John W. Greiff
President

Enc: 1

DR. M. C. FALCONER
DR. J. C. FALCONER
Optometrists

Box 919 • 345 K Street • Phone 272-7557
Anchorage, Alaska 99501

On a positive note I would strongly agree with a license for opticians especially if it would insure some educational standard. This is someting sorely needed here in Alaska. I would encourage you to look at other state laws in this regard. Also I believe a grandfather clause would defeat the purpose behind this educational theme of a bill due to the low degree education already present.

One final note I would be very cautious of the term "fitting under doctor supervision" this has been missused in the past in other states. I would rather see a bill requiring direct in office or on premmisis supervision-this would at least insure the patient that he would recieve proffessional trained supervision of his eye health during the fitting process.

Please call on me if I can be of any help to you!!

Sincerely,

George V. Hall O.D.

George V. Hall O.D.

ml/GLH

HB #33

DR. DENNIS L. ALBERT
OPTOMETRIST

WRIGHT BUILDING
P.O. BOX 835
PALMER, ALASKA 99645
PHONE 745-4373

re: House bill #33 (Opticians act)

Rep. Helen Beirne
Room V, Capitol Bld.
Juneau, Alaska

Dear Mrs. Beirne,

As an Optometrist in the state of Alaska I would like to express my interpretation of house bill #33.

Due to the fact that Opticians have no formal training or education background, I feel they do not need to be licensed as they are merely technicians. The opticians function in the eye care field is to fabricate the lenses from the prescription written by the Optometrist or Ophthalmologist. The F.D.A. has set down certain standards, which are called Z-80 standards, that the opticians work must meet. These standards protect the publics interests, I don't see how licensure will help here.

I beleive the reason Opticians want to be licensed is to protect themselves from other opticians comming into the state. This can be seen from the gross inequalities between licensing requirements after the bill goes into effect, section 08:73:110 and those requirements for the opticians now practicing in the state, section 08: 73:100.

Another motivating factor is the contact portion of the bill. Section 08:73:210. It reads as follows, "However contact lenses may be fit with a written prescription by an optometrist or ophthalmologist". This is poorly written [illegible] by an optometrist or ophthalmologist, in collaboration with and under the supervision of an optometrist or ophthalmologist", needs to this section.

[illegible] only [illegible] that they [illegible] contact lenses but insist that they are [illegible] a license to fit. I can't understand their [illegible]. In most forms of professions a person first becomes [illegible] in a field then secures a license to pursue his [illegible] field. The reverse seems to be true here.

I would appreciate your considering these points in [illegible] consideration of this bill. Hope to be able to [illegible] this matter in person as I have covered only [illegible] I had intended.

Sincerely Yours

Dennis L. Albert

Memo from

DR. M. C. FALCONER
DR. J. C. FALCONER
OPTOMETRISTS

Helen:

Move to come – having some difficulty in obtaining information on contact lenses but have written for it.

The opticians law is more along Those lines recommend by most states Since 21 new optician laws have been passed since 1957 + only 19 states have such laws - up to date recommendations are not available. The present thinking is having The Optician come under the Optometry laws or with Optometrist and Ophthalmologists on their board

Raymond

845 K STREET • P. O. BOX 919
ANCHORAGE, ALASKA 99501
TELEPHONE 272-7557

[illegible] amendments against [illegible] Bill [illegible], 32

"An act relating to the licensing [illegible] Act;"

The [illegible] Committee [illegible] on,

as outlined in this [illegible] .

Page 2, Sec. 08.43.110 [illegible] QUALIFICATIONS OF APPLICANTS FOR EXAMINATION. A person is entitled [illegible] to the examination who

(1) is [illegible] at least [illegible] of age;

(2) has graduated from [illegible] school [illegible] by the board;

(3) [illegible] a good moral character;

(4) [illegible] has [illegible]

(5) has

(A) [illegible] 6,000 hours of practice as a

[illegible] practice

[illegible] in the United States

[illegible] and

(6) has [illegible]

[illegible] Section [illegible] Qualifications [illegible]

[illegible] section [illegible] accompanying [illegible] bill

[illegible] Section [illegible] Rev. Ed.

[illegible] Section [illegible].

A [illegible] "[illegible]" [illegible] Division of

the [illegible] Labor [illegible] America, has

made [illegible] [illegible] [illegible] the Digest of

[illegible] Laws.

[illegible]

[illegible]

buying a business license and putting up your sign.

We should require the same quality of education and knowlege for licensing of those presently working as dispensing opticians as for those who wish to acquire licenses in the future. This will serve to guarantee the public of quality in ophthalmic care today as well as in the future. We cannot accept every person who has set himself up as a dispensing Optician for the period of six month, regardless of knowlege or depth of experience. This gives no assurance of quality in Ophthalmic care. And isn't this what this bill is all about?

Two places in this bill there is made mention of Dispensing Opticians fitting and adjusting contact lenses.

> Page 2. sec. 08.73.090. CONTENT OF EXAMINATION. The examination for dispensing opticians shall be oral, written and practical in nature and shall cover the following subjects: ophthalmic material and technical laboratory, elements of optics, ophthalmic dispensing, contact lenses, technical math and physics, anatomy and physiology of the eye, dispensing business concepts, communications skills and other subjects the board considers advisable.
>
> Page 7. Sec. 08.73.210. DEFINITIONS "dispensing optician"..... contact lenses may be fitted with a written prescription in conjunction with and under the supervision of a physician or an optometrist.

Contact lenses can cause corneal insult and require professional judgment prior to and during the course of lens wear. That is to say that patients fitted to contact lenses should be seen routinely by an Optometrist of Ophthalmologist.

Words like "in conjunction with" and "under the supervision of" are not specific enough here. Supervision could be concidered anywhere from looking over the shoulder to talking it over at lunch. Unfortunately the later would be a more convenient interpretation in most cases.

Here are the reasons that contact lenses should only be fit "in the same office" as an Optometrist or Ophthalmologist.

(1) Corneal Physiology - The majority of the oxygen used by the cornea (the front of the eye) in its metabolism is taken from the air through the tear layer. This is the same tear layer upon which a contact lens rests. An improper fiting contact lens can alter the physiology of the cornea by restricting this oxygen up-take and cause injury to the eye.

(2) Physical Insult - an improper fitting contact lens can cause injury to the cornea and eye by physical irritation that eye (such as by bumping or rubbing the eye).

(3) Biomicroscope (Slit lamp) - The use of a biomicroscope is essential before and during contact lens fitting to insure the health of the eye upon which it is placed. The biomicroscope magnifies the front of the eye many times and enables you to microscopically inspect the eye in 3D(depth). By using various methods of illumination and focus, different aspects of the cornea may be examined. Its use takes much practice and expertience. That which we are looking for may be very minute and visible under only one combination of illumination and focus.

Most early signs and many advanced stages of corneal injury cannot be seen with the naked eye, making the biomicroscope indispensible in the fitting of contact lenses.

The biomicroscope is often used with dyes such as sodium fluoriscene and Rose Bengal to stain damaged or devitalized cells on the cornea. I will show you several slides using some of these dyes to help show eye insult.

An Optometrist before graduation with his degree has 18 semester credit hours of biomicroscopy and contact lens instruction.[2] To use the biomicroscope effectively takes many hours of practice and a knowlege of what you are looking for. This means an in depth knowlege of eye physiology, eye anatomy and eye pathology. The Ophthalmologist and Optometrists are the only two professions sufficiently trained in these areas to use the biomicroscope with proficiency.

Slides of corneal and eye problems photographed using a biomicroscope

(A) Difficulties that should be caught before fitting contact lenses

1. Mascara in the cornea
2. Endothelial dystrophy
3. Corneal vascularization
4. Keratitis
5. Lid closure staining
6. 3-9 O'clock staining

(B) Difficulties that can occure while wearing contact lenses (hard)

1. Foreign body scar
2. Transition zone stain - poor lens design
3. Insertion stain - poor placing and removing technique
4. Foreign body stain -

5. Embedded foreign body

6. Tear film breakup - lens not wetting properly

7. 3 - 9 o'clock staining - improper fit, lens too thick

8. Corneal warping - mechanical insult

9. Microcystic edema - lens effecting metabolism of cornea

10. Beginning of Physiological staining - cell damage

11. Corneal edema

12. Corneal ulcer

13. Corneal ulcer - due to prolonged irritation.

(c) Difficulties that can arise in wearing contact lenses (soft)

1. Awkward

2. Difficult toppling

3. Corneal irritation

Without the use of the biomicroscope, contact lens fitting is limited to uncertain interpretations without complete or exacting until the "after" wearing of the lens(es) in question. Advent of the biomicroscope has changed the only part of the matter of edge fit.

The fitting of contact lenses should be done by a professional knowledgable in the latest techniques available and in the proper use of the biomicroscope. This should be either an ophthalmologist or optometrist.

SUMMARY

(1) Licensing of Dispensing Opticians should require higher educational standards than our present [illegible].

(2) Contact lens fitting should be permitted only by qualified professionals - Ophthalmologists and Optometrist, or in their offices, in their presence.

[1]

TEXT

of

SAMPLE DISPENSING BILL

Wide variations in State statutes and laws make it impossible to write a bill that would be acceptable in all respects, to all State legislative bodies.

Thus, the bill presented in the following pages should be accepted only for what it is, namely, the "working model" of a State Ophthalmic Dispensing statute. It is simply, and of necessity, a "point of departure" which gives you a working outline of the desired provisions to assist you in the development of your own bill.

Nonetheless, it has specifically been our endeavor in this text to provide, in acceptable legal phraseology, the essential provisions for Ophthalmic Dispensing Licensing Legislation, for it is of the utmost importance in promulgating licensing legislation in the several states that basic homogeneity should prevail in provisions and definitions, in order to avoid utter confusion in ensuing years.

Further, unification in the use of the term "Ophthalmic Dispensing", the definitions in the act, years required for exemption, training standards, educational standards, exemptions for technicians, and other such provisions, tends to raise the prestige and the objectives of our endeavors, and is of genuine importance.

The material furnished you is only for your assistance, and that of your Counsel.

Cordially yours,

EUGENE J. ANSPACH, JR.
Chairman
Legislation Committee
Guild of Prescription Opticians
of America, Inc.

January 15, 1954

Text Of Sample Dispensing Bill

ARTICLE --

PRACTICE OF OPHTHALMIC DISPENSING

§1. *Factual background* and statement of public policy. Ophthalmic dispensing is at present unregulated. Prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses or other optical appliances intended to be used for the human eye may be and in many cases are being compounded, filled, fitted, adapted, and adjusted by incompetent, incapable, ignorant persons. This has endangered, impaired and imperiled and threatens to endanger and imperil the health of the public, has defeated and defeats public policy, and has been and will be subversive to and has caused and will cause irreparable injury to the health, safety and welfare of the people of the state. Errors in refraction result from the improper compounding, filling, fitting or adapting of prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses, or other optical appliances intended to be used for the human eyes. This causes eye strain, headaches, digestive disorders, nausea, neuralgia or pronounced vertigo and can give rise to remote nervous disturbances of a most profound character. It is necessary in the interest of the public health, safety and welfare of the people of the state that those engaged in the practice of optical dispensing posses the education, special knowledge of the science, and ability to apply such knowledge, so as to properly fill and compound prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses or other optical appliances for the human eyes, and to properly adapt, fit and adjust the same. To insure this protection to the public, it is hereby declared the public policy of the state of ..... that those engaged in the practice of ophthalmic dispensing as hereinafter defined must be licensed pursuant to the provisions of this article to engage in such practice.

§2. *Definitions.* As used in this article:

1. "Board" means the board of examiners in ophthalmic dispensing of the state of .....
2. "Examiner" means a member of the board of examiners in ophthalmic dispensing.
3. "Dispensing optician" means a practitioner of ophthalmic dispensing.
4. The practice of "ophthalmic dispensing" is defined as follows:

A person practices ophthalmic dispensing within the meaning of this article who engages (a) in the filling or compounding of prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses, optical devices or other optical appliances and intended to be used for eyewear or for the aid, correction, relief or treatment of visual or ocular anomalies of the human eye; and (b) in the surveying and measuring of the external features of the face and head of human beings for the proper designing and fitting of such lenses, spectacles, eyeglasses, optical devices or other optical appliances as required by such prescriptions; and (c) in the

adapting, fitting, servicing and adjusting of such lenses, spectacles, eyeglasses, optical devices or other optical appliances in accordance with such prescriptions for the intended wearer or user thereof; and (d) in the dispensing, furnishing or supplying to such intended wearer or user of any such lenses, spectacles, eyeglasses, optical devices or such other optical appliances in accordance with such prescriptions.

§3. *State board of examiners* in ophthalmic dispensing. There is hereby created a state board of examiners in ophthalmic dispensing within the education department of the state of ..... Such board shall consist of five examiners who shall be appointed by ..... within sixty days after this act becomes effective. Each of said examiners shall have been actually engaged principally in the practice of ophthalmic dispensing for a period of not less than ten years preceding the date of his appointment, and shall have been a citizen of the United States and a resident of the state of ..... for at least five years prior to the date of his appointment. The members of the first board appointed hereunder shall each receive from the department a license to practice ophthalmic dispensing and they shall be appointed to serve for the following terms respectively: one for one year; one for two years; one for three years; one for four years; and one for five years. On the expiration of each of said terms a successor shall be appointed by ..... The term of office of each newly appointed or reappointed examiner shall be for a period of five years. Each examiner shall hold over after the expiration of his term until his successor shall have been duly appointed and shall have qualified. Vacancies on the board shall be filled by appointment by ..... for the unexpired term. Before assuming the duties of his office, each examiner shall file with the secretary of state the constitutional oath of office. Each examiner shall receive a compensation to be determined by .... for the time spent in the performance of is official duties and necessary travel and shall be reimbursed for all proper traveling and incidental expenses incurred in carrying out the provisions of this article. The ..... may remove any examiner from office for misconduct, incapacity or neglect of duty.

§4. *Powers and duties of board.* The board shall annually prior to ..... elect from among its members a chairman and a secretary and shall hold meetings during the year as it may determine to be necessary or as may be required by the department, one of which shall be the annual meeting. The board may, subject to approval by ....., make such rules not inconsistent with law as may be necessary in the performance of its duties. The board or any committee thereof shall be entitled to the services of the attorney-general and shall have the power to compel the attendance of witnesses, to administer oaths, and to take testimony and proofs concerning all matters within its jurisdiction pursuant to section ..... of the public officers law.

§5. *Qualifications, examinations, exemptions and fees.* After . . . (the effective date of the law) . . . , no person shall engage in the practice of ophthalmic dispensing unless he shall be licensed and registered as herein provided; this provision shall be enforceable by action for injunction brought in the name of the people by the attorney-general. Every person desiring to enter or to continue in the practice of ophthalmic dispensing after said date, except as hereinafter provided, shall pass an examination to determine his qualifications and fitness therefor.

1. Qualifications. The department shall admit to examination any applicant who pays a fee of twenty-five dollars and submits evidence verified by oath and satisfactory to the department that he (a) is more than twenty-one years of age; (b) is a citizen of the United States or has declared his intention of becoming such citizen in accordance with law; (c) is of good moral character; (d) has satisfactorily completed a four-year course of study in a secondary school registered by the department as maintaining a satisfactory standard or the equivalent thereof as determined by the department; and (e) either (1) has satisfactorily completed a two-year course of study in a school of ophthalmic dispensing approved by the department as maintaining a satisfactory standard and subsequent thereto has had practical training and experience under the supervision of a dispensing optician, oculist or optometrist of a grade and character satisfactory to the board for not less than three years; or (2) has had practical training and experience under the supervision of a dispensing optician, oculist or optometrist of a grade and character satisfactory to the board for not less than five years, but the department prior to . . . (a date five years after the effective date of the law) . . . upon recommendation of the board, may accept a like period of actual engagement in the practice of ophthalmic dispensing prior to . . . (January 1 of the year of the effective date of the law) . . . in lieu of all or any part of said five years of such training and experience. Every person who is employed by an ophthalmic dispenser, oculist or optometrist with the intention of becoming an ophthalmic dispenser shall apply to the department for a trainee permit prior to entry upon such training. Trainees shall complete at least 600 hours of supervised experience in the fitting and adjusting of ophthalmic lenses, 300 hours in the verification and interpretation of prescriptions and 300 hours in other aspects of the practice and theory of

ophthalmic dispensing, including laboratory preparation.

2. *Examinations.*

a The subjects of examinations and their scope, content and character, which in any examination shall be the same for all candidates, shall be determined by the department upon recommendation of the board, except that on and after . . . (insert month and year) . . . all examinations in ophthalmic dispensing shall include, but not be limited to, the following subjects: mathematics and physics, ophthalmic materials and laboratory, ophthalmic optics, ophthalmic dispensing and a practical examination.

b The ophthalmic dispensing examinations shall be held at such times and places as shall be determined by .....

c Applications shall be filed with the department at least 30 days before the examination.

d Each application must be accompanied by a recent photograph approximately two by three inches in size and by the statutory fee, which fee shall entitle the candidate to two complete examinations. Examinations in two or more subjects are considered a "complete" examination. No fee is required of a candidate who is scheduled by the department for a single subject only. A candidate who passes the practical examination shall not be re-examined in that subject.

e The passing mark in the practical ophthalmic dispensing examination shall be 75 per cent. The passing mark for the written examination shall be an average of 75 per cent. However, in order to determine this average no theoretical paper shall be accepted with a grade less than 65 per cent and only one paper with a grade less than 75 per cent.

f Any false or misleading information in connection with any application may be cause for exclusion from the examinations on the ground of lack of good moral character. If the department finds that the application is complete and that all the requirements of the statute and of the regulations have been met, it shall issue to the applicant an admission card which shall advise him of the time, date and place of the examination. When the candidate submits each examination paper he shall exhibit his admission card to the examiner. At the conclusion of the final examination the examiner shall retain the card.

g Licensing examinations shall be conducted in accordance with the following procedure, and any candidate violating such procedure may be dismissed from the examination room or otherwise disciplined.

(1) No candidate shall enter the examination more than 45 minutes after the question papers have been distributed nor shall any candidate leave the examination until 45 minutes have elapsed.

(2) During the examination no candidate shall communicate with any other candidate in any way.

(3) A candidate shall not bring books or other help of any kind into the examination room unless directed to do so by the department because of the character of the examination.

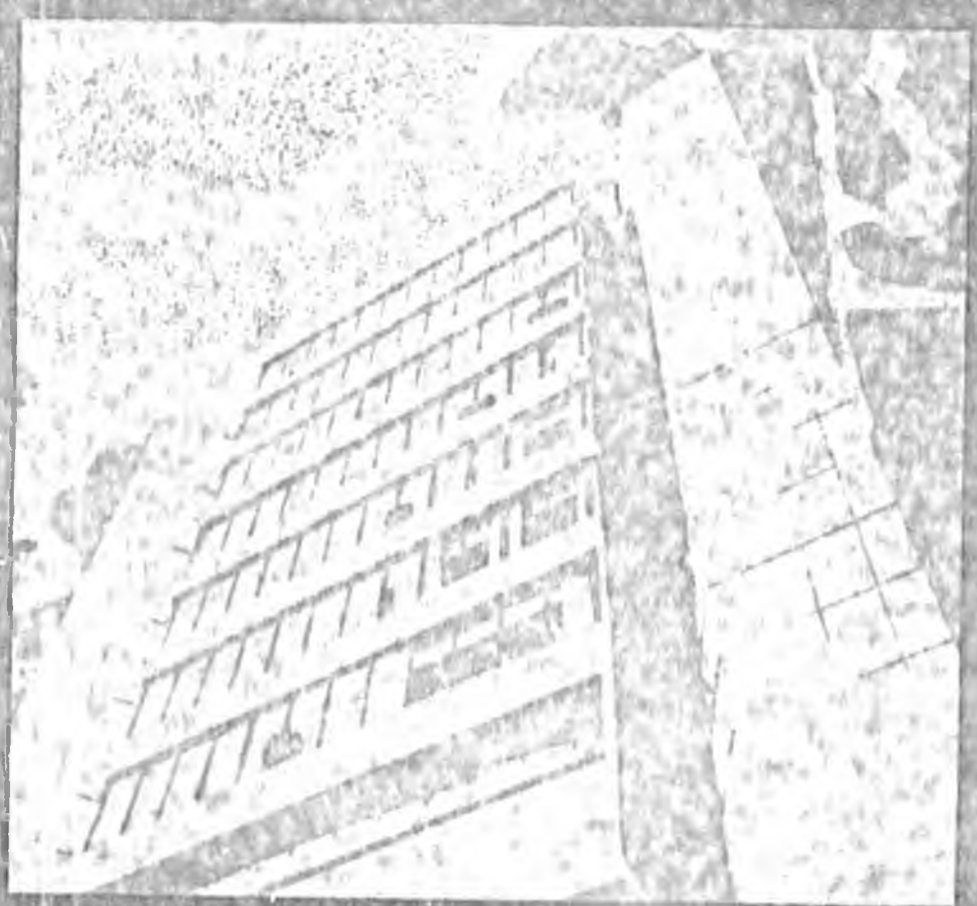
(4) After handing in his last paper in any examination each candidate shall make and subscribe to a statement to the effect that he has neither given nor received aid during the examination.

h At the close of each examination the answer papers shall be examined, rated and reported as required by the department. On receiving from the board an official report that an applicant has successfully passed the examination, the department shall issue to said applicant a license to practice ophthalmic dispensing in keeping with the definition thereof provided in this article; provided that a license to practice optical dispensing issued to any person who has declared his intention of becoming a citizen of the United States shall become void at the expiration of eight years from the date of the declaration of the intention of such applicant to become a citizen unless prior to the expiration of said eight years evidence is furnished to the department that the applicant has become a citizen of the United States.

3. *Exemptions and fees.* The department upon recommendation of the board shall issue a license without examination to any person who makes application therefor prior to ....., and pays a fee of twenty-five dollars and submits evidence verified by oath and satisfactory to the department as to his character, competency and qualifications, and that he has been actually principally engaged in the practice of ophthalmic dispensing, as herein defined, for a period of not less than five years, and that he was actually so engaged in such practice at the time of the taking effect of this article. The department shall issue to such applicant a license without examination, which license shall be registered and entitle him to practice ophthalmic dispensing under the provisions of this article. The department shall issue a license to practice ophthalmic dispensing to any duly licensed physician or optometrist who pays a fee of twenty-five dollars providing the applicant's record fully meets the requirements of this article in all respects other than examination. Upon the recommendation of the board, the department may issue a license to practice ophthalmic dispensing to any applicant who pays a fee

[2]

1972-73 CATALOG SOUTHERN COLLEGE OF OPTOMETRY



PHYSICS (12 QTR. or 8 SEM. HRS.)
This requirement will be satisfied by completion of college level courses, with accompanyi[ng] [la]boratories, which adequately cover mechanics, heat, light, so[und] [mag]netism and electricity.

PSYCHOLOGY (3 QTR.
This requirement will [be] [sa]tisfied by completion of a college level course of general or [ab]normal psychology.

ELECTIVES to total

No preprofessi[onal student] may complete h[is] [pro]gram at a college or junio[r] [col]lege, but he must be in good st[anding] [at] the college to be eligible for a[dmission].

In selectin[g] [cou]rses a student should bea[r] in mind that a rigorous advanced [curriculum] in biology and optical physics [is] required by some e[very] [sch]ool, although the course[s] [in] several similar schools should [be] [tak]en at the student prep[ares] [to] enter medical mo[re] [spe]cifically, the ar[ea] [of] science majors or g[rad]uate work, is qualified to take college work [in] these areas should do so. The pre opt[ometry] [cur]riculum requirement is a minimum of general biology, [gen]eral chemistry, [or]ganic chemistry, [phy]sics, [bio]chemistry, [and] [ad]vanced mathematics.

[Stu]dents enrolled in the admission [pro]gram of the College, rther, an average of C [or] [bet]ter is required. The scholastic [ave]rage is obtained by [div]iding the number of quality [hou]rs attempted (including [cou]rses for which graded for credit). Courses [fro]m which the student [is] [dis]missed for failing, or from which he withdrew [wh]ile failing, are included in the number of course hours [att]empted.

All candidates for [adm]ission to the College are required to take the Optometry College Admi[ssion Test] (OCAT) and file the resulting scores with the College in suppo[rt of] [the] application for admission. Applications will be considered [in]complete until receipt of the OCAT scores. Information concerning the Optometry College Admission Test is published separately

PRIORITIES IN SELECTING THE ENTERING CLASS. In those years when the number of qualified applicants appreciably exceeds the limited number of openings for the entering class, a system of priorities for acceptance must necessarily be applied. Applicants should

therefore be aware of the general guidelines below.

All other things being equal, an applicant:

(1) Who has completed or most nearly completed all general admissions requirements would be selected over one whose application is less complete.
(2) Who resides in a state for which the quota of places in the entering class remains unfilled would be selected over one from a state the quota of which was filled.
(3) With a higher scholastic standing (grade point average) in either prerequisite courses or all courses or both would be selected over one with lower standing.

SAMPLE PREPROFESSIONAL PROGRAM. The following sample program is intended as a guide for prospective optometry students. The sequence of courses as well as the amount of credit assigned to each course may vary at different schools. The student should adjust his preprofessional program to conform to the requirements of the school he is attending while fulfilling the admission requirements of this college.

FRESHMAN YEAR

First Semester	Hours	Second Semester	Hours
English	3	English	3
Biology	4	Biology	4
Algebra	3	Trigonometry	3
Chemistry	4	Chemistry	4
Electives	1 to 4	Electives	1 to 4
Total Hours	15 to 18	Total Hours	15 to 18

SOPHMORE YEAR

First Semester	Hours	Second Semester	Hours
Physics	4	Physics	4
Microbiology	3	Psychology	3
Electives	8 to 11	Electives	8 to 11
Total Hours	15 to 18	Total Hours	15 to 18

PREPROFESSIONAL GUIDANCE. The College is prepared to assist preprofessional guidance counselors and committees in advising preoptometry students. The request for assistance should be originated by the guidance counselor or committee, and it should be accompanied by a copy of that school's current catalog.

SUBMISSION OF APPLICATION. No application for admission to the College can be considered until receipt by the College of the completed application form, application fee (non-returnable),

enrolled in a college of optometry, or who has been accepted to the next class commencing at that college, may be given a 2-S classification by his local board.

Due to the fact that the College enrolls only one class of new students each year, in September, there may be an unavoidable delay of several months following the completion of preoptometric requirements before the student can actually commence his professional education. Nevertheless, the student is still eligible for consideration for deferment if such situation exists.

When a student has completed all admission requirements, paid the advance deposit, and has been given final acceptance, the SSS Form No. 103 can be submitted to the student's local board to substantiate his own written request for deferment (2-S classification). The number and address of the student's local board together with his selective service number should be furnished to the College when requesting that the Form No. 103 be submitted in his behalf. Specific policies governing the granting of the student deferment vary among local boards; the student is urged to familiarize himself with the policies of his own board.

Graduates of the O.D. Degree program may enter the Armed Forces or the Public Health Service as Commissioned Officers. In addition, the Army, Navy and Air Force offer early commissioning programs, whereby qualified students may receive appointments as Optometry Officers at least one year before they graduate.

CURRICULUM

FIRST PROFESSIONAL YEAR

FALL QUARTER

			HOURS CREDIT
Bioptics	110	Functional Anatomy (5 HRS LEC, 2 HRS LAB)	6
Bioptics	111	Physical Optics (4 HRS LEC, 2 HRS LAB)	5
Bioptics	112	Statistical Methods (3 HRS LEC)	3
Optometry	110	Introduction to Optometry (4 HRS LEC, 2 HRS LAB)	5
*Optometry	114	Clinic Orientation (2 HRS LAB)	1
		Total	20

WINTER QUARTER

Bioptics	120	Functional Anatomy (5 HRS LEC, 2 HRS LAB)	6
Bioptics	121	Geometrical Optics (3 HRS LEC, 2 HRS LAB)	4
Bioptics	122	Research Methodology (3 HRS LEC)	3
*Optometry	114	Clinic Orientation) (2 HRS LAB)	
Optometry	120	Basic Optometry (4 HRS LEC, 2 HRS LAB)	5
Optometry	123	History of Optometry (2 HRS LEC)	2
		Total	20

SPRING QUARTER

			HOURS CREDIT
Bioptics	130	Functional Anatomy (5 HRS LEC, 2 HRS LAB)	6
Bioptics	131	Geometrical Optics (3 HRS LEC, 2 HRS LAB)	4
Bioptics	132	Psychological Optics (5 HRS LEC, 2 HRS LAB)	6
*Optometry	114	Clinic Orientation) (2 HRS LAB)	
Optometry	130	Basic Optometry (4 HRS LEC, 2 HRS LAB)	5
		Total	21

*Note: One quarter hour credit is awarded upon completion of this course in the Spring Quarter.

SECOND PROFESSIONAL YEAR

FALL QUARTER

Bioptics	211	Physiological Optics (4 HRS LEC, 2 HRS LAB)	5
Bioptics	213	Neuroanatomy (3 HRS LEC, 2 HRS LAB)	4

Optometry	210	Advanced Optometry (3 HRS LEC, 2 HRS LAB)	4
Optometry	211	General Pathology (4 HRS LEC, 2 HRS LAB)	5
Optometry	212	Ophthalmic Optics (3 HRS LEC)	3
*Optometry	214	Clinical Procedures (2 HRS LAB)	1
		Total	22

WINTER QUARTER

			HOURS CREDIT
Bioptics	221	Physiological Optics (4 HRS LEC, 2 HRS LAB)	5
*(Optometry	214	Clinical Procedures) (2 HRS LAB)	
Optometry	220	Advanced Optometry (4 HRS LEC, 2 HRS LAB)	5
Optometry	221	Ocular Pathology (5 HRS LEC, 2 HRS LAB)	6
Optometry	222	Ophthalmic Optics (2 HRS LEC, 2 HRS LAB)	3
		Total	19

SPRING QUARTER

Bioptics	231	Physiological Optics (3 HRS LEC, 2 HRS LAB)	4
Bioptics	233	Organo-Biochemistry (3 HRS LEC)	3
*(Optometry	214	Clinical Procedures) (2 HRS LAB)	
Optometry	230	Advanced Optometry (4 HRS LEC, 2 HRS LAB)	5
Optometry	231	Ocular Pathology (5 HRS LEC, 2 HRS LAB)	6
Optometry	232	Ophthalmic Optics (2 HRS LEC, 2 HRS LAB)	3
		Total	21

*Note: One quarter hour credit is awarded upon completion of this course in the Spring Quarter.

THIRD PROFESSIONAL YEAR

FALL QUARTER

			HOURS CREDIT
Bioptics	312	Neurophysiology (3 HRS LEC, 2 HRS LAB)	4
Optometry	310	Basic Contact Lens Practice (4 HRS LEC, 2 HRS LAB)	5
Optometry	311	Vision Training (3 HRS LEC, 2 HRS LAB)	4
Optometry	315	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	316	General Pharmacology (3 HRS LEC)	3
		Total	20

WINTER QUARTER

Bioptics	320X	Vision Science Laboratory (2 HRS LEC, 2 HRS LAB)	3
Optometry	320	Advanced Contact Lens Practice (2 HRS LEC, 2 HRS LAB)	3
Optometry	321	Vision Training (5 HRS LEC, 2 HRS LAB)	6
Optometry	323	Ophthalmic Optics Laboratory (non-required elective, 2 HRS LAB)	(1)
Optometry	325	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	326	Ocular Pharmacology (3 HRS LEC)	3
		Total	19 (20)

SPRING QUARTER

			HOURS CREDIT
Bioptics	330X	Vision Science Seminar (3 HRS LEC)	3
Optometry	330	Limited Vision and Aniseikonia (3 HRS LEC, 2 HRS LAB)	4
Optometry	331	Vision Training (4 HRS LEC)	4
Optometry	333	Ophthalmic Optics Laboratory (non-required elective, 2 HRS LAB)	(1)

Optometry	334	Optometric Dispensing (2 HRS LAB)	1
Optometry	335	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
		Total	16 (17)

SUMMER QUARTER

Optometry	345	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	346	Contact Lens Clinic (4 HRS LAB)	1
Optometry	347	Vision Training Clinic (4 HRS LAB)	1
		Total	6

FOURTH PROFESSIONAL YEAR

FALL QUARTER

Bioptics	411	Vision Science Survey (2 HRS LEC)	2
Optometry	410	Environmental Vision (5 HRS LEC)	5
Optometry	413X	Optometry Seminar (3 HRS LEC)	3
Optometry	415	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	416	Contact Lens Clinic (4 HRS LAB)	1
Optometry	417	Vision Training Clinic (4 HRS LAB)	1
		Total	16

WINTER QUARTER

Bioptics	421	Vision Science Survey (2 HRS LEC)	2
Optometry	420	Practice Management (3 HRS LEC)	3
Optometry	422	Public Health (2 HRS LEC)	2
Optometry	423X	Optometry Seminar (3 HRS LEC)	3
Optometry	425	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	426	Contact Lens Clinic (4 HRS LAB)	1
Optometry	427	Vision Training Clinic (4 HRS LAB)	1
		Total	16

SPRING QUARTER

			HOURS CREDIT
Bioptics	431	Vision Science Survey (2 HRS LEC)	2
Optometry	430	Practice Management (3 HRS LEC)	3
Optometry	432	Jurisprudence (2 HRS LEC)	2
Optometry	433X	Optometry Seminar (3 HRS LEC)	3
Optometry	435	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	436	Contact Lens Clinic (4 HRS LAB)	1
Optometry	437	Vision Training Clinic (4 HRS LAB)	1
		Total	16

COURSES OF INSTRUCTION

Courses numbered in the 100 series are for first professional year students, 200 for second professional year students, 300 for third professional year students, and 400 for fourth professional year students. The letter E following a course number indicates that the course is offered through the External Studies Program. The four-year program provides more than 4000 clock hours of instruction in optometric science and clinical optometry and carries 232 quarter hours of credit.

The curriculum is organized for administrative purposes into two departments, Bioptics and Optometry. The Bioptics Department is an

SURFACE FOR DEVL.

LEGEND

- 4th D — VEGETATION COVER, SOFT AND WET.
- 4th A — SILTY GRAVEL W/POLYGONS FROST SUSCEPTIBLE
- 3rd — SILTY SAND AND GRAVEL OVER CLEAN GRAVEL
- 1st — MAINLY CLEAN SAND AND GRAVEL
- 2nd — THIN SAND AND GRAVEL LAYER OVER BEDROCK
- 4th C — SILTY GRAVEL W/POLYGONS & WATER
- 4th B — SILTY GRAVEL W/POLYGONS & WATER

200
150
100
50
100
250
500
500

INDUSTRIAL SITE
180 AC.

TOWNSITE
130 AC

1ST PHASE
48 AC.

TOWNSITE 157 AC

1) EAST SIDE
- CREEP & FLASH FLOODING PROBLEMS FROM NORTH SLOPES
- GENERALLY 2d OF OVERBURDEN
- 20% ICE BY VOLUME OF FROZEN MAT.
- 25F. PERMAFROST

(1d-2d) R.F.

2) WEST SIDE
- NO CREEP OR FLOODING PROBLEMS (12'-20') R.F.
- HIGHER ELEVATION
- GENERALLY 25'd OF OVERBURDEN
- 20% ICE BY VOLUME OF FROZEN MAT.
- 25F. PERMA FROST

(10'-20') R.F. (5'-8') R.F. (8'-10') R.F. (10'-15') R.F.

(12'-15') R.F. (11'-15') R.F. (2'-10') R.F. (5'-7') R.F.

BERING SEA

4-15-72

HB 817

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

March 23, 1974

M E M O R A N D U M

TO: Legislative Council

FROM: Randolph Berry, Revisor of Statutes

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes."

This bill was prepared by the Revisor of Statutes under AS 01.05.-036. The proposed amendments are designed to accomplish the following purposes: (1) correction of citations; (2) correction or change in language due to court decisions; (3) cleanup to make provisions consistent with other law or to recognize more recently enacted law; and (4) miscellaneous clarification and correction.

It is suggested that this explanatory memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 adds language intended to simplify citations and make it clear that unless a citation specifically refers to a statute or Act as it existed on a particular date, the citation includes amendments or reenactments of the statute cited.

Section 2 seeks to make the terminology of AS 04.10.139 consistent with that in the Alaska municipal law (AS 29).

Sections 3, 4, 10, 16 and 17 attempt to repeal or amend the qualification requirements for occupational licensing based on citizenship or intention to become a citizen for various businesses and professions to conform to the decision by the United States Supreme Court in In Re Griffiths, 413 U.S. 717, 37 L.ed 2d 910, ___ S.Ct. ___ (1973). In that case the court held that a Connecticut statute which denied admission to the state bar to a resident alien who had not declared an intention to become a citizen violated the equal protection clause of the Fourteenth Amendment by discriminating against resident aliens.

Section 5 deletes the date reference in the short title of AS 08.04 because date references of this nature are unnecessary and tend to cause confusion in later years, particularly if amendments have been subsequently enacted.

Sections 6 and 7 rewrite the admission requirements of the Alaska Bar, both for persons applying to take the regular bar examination and attorney applicants applying to take the attorney examination, to conform to the new Alaska Bar Rule on eligibility for admission (Part 1, Rule II of the Alaska Bar Rules) promulgated by the Alaska Supreme Court on June 8, 1973 and the holding of the court in In re Stephenson, 511 P. 2d 136 (Alaska 1973) that the court has inherent and final power and authority to determine the standards for admission to the practice of law in Alaska. The reference to the requirement that a resident alien intend to become a citizen of the United States has been removed from AS 08.08.130 to conform to my interpretation of In Re Griffiths, (supra), although the requirement remains in Part I, Rule 2, Section 1(e) of the Alaska Bar Rules.

Section 8 adds additional language to AS 08.08.180 to bring that section into conformity with the decision of the Alaska Supreme Court in In re Petition of Crosby, 495 P. 2d 1270 (1972) which held that if the non-payment of dues involved a question of or challenge to the board's authority to compel the payment of the dues sought, then a hearing was necessary to comply with procedural due process.

Section 9 seeks to remedy a practical problem resulting from contradictory requirements as to service between AS 08.18.081(a) and AS 21.09.180 - 21.09.190. AS 21.09.180 - 21.09.190 make the director of the division of insurance agent for the service of process on insurers, and the exclusive agent for service in the case of foreign insurers, and require the payment of a $5 fee. AS 08.18.081 provides that persons bringing an action against a contractor on his bond shall serve the commissioner of commerce, who shall transmit the complaint to the insurer. (In the case of foreign insurers, the complaint would be transmitted to the director of the division of insurance, in accordance with AS 21.09.180, but the $5 required by AS 21.09.190 would not have been collected.)

Section 11. The definition of "mines" cited in AS 08.52.070 was repealed in 1963. The terminology of that definition was carried over in substantially the same form as a definition of "mining operations". (See ch. 75 SLA 1963.)

Section 12 inserts a word which was apparently omitted in this section in the original version of the bill (HB 1) which became ch. 17 SLA 1973. The word is necessary to make the terminology of AS 08.54.190(b) consistent with the remainder of AS 08.54.

Section 13 repeals a provision relating to physicians providing care by authority of permits for isolated areas. The section

providing for the issuance of permits for isolated areas (AS 08.-64.368) was repealed in 1970 (see sec. 27 ch. 148 SLA 1970).

Sections 14 and 15 insert additional language in AS 08.71.080 and 08.71.090 (relating to the licensing of dispensing opticians) to remove a conflict with AS 08.71.150 which provides for issuance of licenses without examination to applicants who have been licensed and practicing or a dispensing optician in another state.

Sections 18, 19, and 20 change the terminology of AS 12.25.150, 12.25.180 and 12.25.190 to avoid a potential conflict through the use of the term "arrest" with Rule 5 of the Rules of Criminal Procedure, which provides specific procedures and time limits for appearance before a magistrate after arrest.

Section 21 changes the terminology of AS 14.25.220(5) to conform with current terminology found in AS 14.12 and in Alaska municipal law (AS 29).

Section 22 updates an archaic reference to state police.

Section 23 corrects the reference to the department responsible for the issuance of vouchers from Revenue to Administration to conform to AS 37.

Section 24 deletes language describing the initial terms of members appointed to the Board of Fish and Game, as this language is no longer necessary.

Section 25 repeals a penalty provision (AS 16.05.700) which is duplicated by a general penalty provision (AS 16.05.720) appearing in the same article of the Fish and Game Code (AS 16.05).

Section 26 changes the time period for establishment of residency (for purposes of the Fish and Game Code, AS 16.05) by aliens maintaining a permanent place of abode in the state to make it consistent with the one year required of other persons residing in the state. This change appears to be necessary to conform to the decisions of the Supreme Court in Takahaski v. Fish and Game Commission, 334 U.S. 410, 92 L.ed 1478, 68 S.Ct. 1138 (1948) and Graham v. Richardson, 403 U.S. 365, 29 L.ed 2d 910, 91 S.Ct. 1841 (1971). In Takahashi the court restricted the "special public interest" doctrine in the area of fish and game laws which discriminated against aliens, and in Graham v. Richardson the court invalidated statutes which established a differential residency requirement for aliens as being a violation of the equal protection clause of the Fourteenth Amendment.

Section 27 deletes a provision (AS 16.10.060, prohibiting the use of fish traps) which is unnecessary since the passage of ch. 17 SLA 1959, as amended by ch. 95 SLA 1959 (AS 16.10.070 - 16.10.110, prohibiting and establishing penalties for the use of fish traps).

Section 28 changes the date for the submission of the report of the Alaska Commercial Fisheries Entry Commission. This change seems necessary in view of ch. 8 SLA 1973 changing the date of the convening of the legislature to the third rather than the second Monday of January.

Section 29 deletes the reference to specific states in AS 16.45.010 (governor's power to enter into the Pacific Marine Fisheries Compact) as this reference seems unnecessary in view of the language of the compact itself (AS 16.45.020). Article XII of the compact provides for other states in addition to those listed in AS 16.45.010 to become compacting states.

Section 30 makes a change in the language and punctuation of the provision (AS 18.07.030(b), membership of the Comprehensive Health Advisory Council) to correct an apparent internal conflict in the language of the provision, which states that there are three governmental members and lists four persons. The change is intended to make it clear that the representative of the health care service and delivery agencies of the armed forces sitting in an advisory capacity is not counted as one of the governmental members.

Section 31 changes the terminology of a provision of AS 18.07.080 (functions and duties of the Comprehensive Health Advisory Council) to clarify an ambiguity. Reading AS 18.07.080(1) in conjunction with AS 18.07.090 seems to require this interpretation.

Section 32 updates the terminology of the provision describing the terms of office of board members of the Alaska State Housing Authority, as the reference to the year of initial appointment of each member is no longer necessary.

Section 33 deletes the reference to "writ of mandamus" as writs of mandamus are abolished by Rule 91(b) of the Rules of Civil Procedure.

Section 34. This section repeals a provision exempting persons employed as outside salesmen or in an executive, administrative or professional capacity from the coverage of AS 23.10.060 (payment for overtime) as the categories of persons are exempted under AS 23.10.055(9) from the entire Wage and Hour Act (AS 23.10.050 - 23.10.150).

Section 35 deletes unnecessary language in order to simplify and clarify the definition of occupation.

Section 36 removes a conflict between AS 28.15.285(b) and AS 28.15.288 as to the time the decision of the Department of Public Safety following a driver improvement interview becomes effective. AS 28.15.285(b) generally provides that the decision is effective upon receipt of the notice; AS 28.15.288 specifically provides that a decision by the department suspending or revoking a person's driving privilege does not take effect pending a hearing or subsequent appeal.

Section 37. Ch. 81 SLA 1973 enacted AS 28.31 (abandoned motor vehicles), which replaces AS 28.30. The repealer of AS 28.30 was apparently inadvertently omitted when the bill which enacted AS 28.31 was introduced.

Section 38 deletes a provision requiring municipalities to file reports relating to long-term debt as provided in AS 44.19.205. AS 44.19.205 (powers and duties of the Local Affairs Agency) was repealed by ch. 200 SLA 1972, which created the Department of Community and Regional Affairs. No provision comparable to AS 44.-19.205(1) (requiring reports of local government debt) is found in AS 44.47 (Department of Community and Regional Affairs).

Section 39 deletes a citation. AS 38.35.120(7) was repealed when AS 38.35.120 was repealed and re-enacted by ch. 3 FSSLA 1973. No comparable provision appears in the new version of AS 38.35.120.

Section 40 updates a citation to include a later enacted provision of the same category as those cited.

Section 41 updates citations to provisions relating to the state geologist.

Section 42 deletes the date reference in the short title of AS 38.-05.181 for the same reason as sec. 5.

Section 43 adds "commissioners and employees of the Alaska Commercial Fisheries Entry Commission" to the list of positions in the exempt service. These positions were established as exempt by AS 16.43.-060 and 16.43.080, and this section is intended merely to keep the listing in AS 39.25.110 current.

Section 44 corrects the reference to the "section of weights and measures" as there is not a division of weights and measures.

Section 45 removes the unnecessary "organized" from in front of "municipality".

Sections 46 and 47. These sections make the citations to the provisions dealing with state aid to local governments for miscellaneous municipal purposes more specific so as to avoid conflict with other sections in AS 43.18.

Section 48. This section returns the definition of "costs of school construction" to its original language prior to ch. 28 SLA 1973. Apparently the changes made by that enactment were inadvertent clerical errors.

Section 49. This section removes the reference to the costs of prosecution in the penalties for violation of the Alaska Net Income Tax Act (AS 43.20), as those references conflict with AS 12.80.030, which provides that costs may not be taxed to the defendant in a criminal action unless otherwise ordered by supreme court rule.

Section 50. This provision (AS 44.62.150, dealing with the price and sale of the Alaska Administrative Register and Alaska Administrative Code by the lieutenant governor) is no longer necessary due to the publication and sale of the register and code by a private publisher under the certificate of the lieutenant governor.

Section 51 corrects the reference in AS 44.68.020 to the department responsible for rules regarding the use of state-owned vehicles. Executive Order No. 18 (1962) and AS 47.44.020, enacted in 1963 (ch. 49 SLA 1963), transferred this responsibility to the Department of Highways.

Sections 52 and 53 make changes in provisions under the food stamp program (AS 47.25.975 - 47.25.990) to bring those provisions into conformity with changes in the federal food stamp program enacted by Congress in 1973 (P.L. 93-86).

RB/sm

Court Seals
HB-811

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 13, 1974

Honorable Representative Clem V. Tillion
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Representative Tillion:

Enclosed is draft amendatory legislation concerning seals of court, which the court system would like to have introduced during the current legislative session, if possible.

As you are aware, the trial courts in Anchorage and in the Bethel Judicial Service Area have been consolidated for administrative purposes. This means, among other things, that all pleadings and documents filed with both the Superior and District Courts are filed in the same office and with the same clerks. It would be more efficient and less confusing if the consolidated trial courts had a single seal and a single time stamp for the filing of pleadings and documents in both courts. Since at the present time only the Anchorage and Bethel trial courts have been consolidated for administrative purposes, it would be unwieldy to attempt to solve a problem that is now confined to Anchorage and Bethel by amending AS 22.10.070 and AS 22.15.130, which prescribe respectively the forms for Superior and District Court seals throughout the state. Requiring the Supreme Court to prescribe the forms of court seals for Superior and District Courts would provide flexibility within the court system to meet the problem as it now exists and as it may arise in future consolidations elsewhere in the state.

Your assistance in having this bill introduced is greatly appreciated.

Very truly yours,

Arthur H. Snowden, II
Administrative Director

AHS:mp

IN THE HOUSE

HOUSE BILL NO. ___

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to seals of court; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 22.05.060 is amended to read:

Sec. 22.05.060. SEALS OF COURT. The seal of the Supreme Court is a vignette of the official flag of the State with the words "Seal of the Supreme Court of the State of Alaska" surrounding the vignette. The Supreme Court shall prescribe by rule the seals of court for the Superior and District Courts.

* Sec. 2. AS 22.10.070 and AS 22.15.130 are repealed.

* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

HB-794

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99801

March 13, 1974

M E M O R A N D U M

TO : Rep. Clem Tillion

FROM : Joel Bennett, Legislative Counsel

SUBJECT: Attached bill "relating to the crime of extortion"

I have re-worked the draft version rather extensively (the changes are shown on the xeroxed draft). Some of the California revised Penal Code language on extortion (which followed the Model Penal Code also) is incorporated (also enclosed). Finally, the Model Penal Code background material is enclosed.

JB:b
Enclosures

HB-794

February 6, 1974

The Honorable Clem Tillion
House Judiciary Chairman
Pouch V
Juneau, Alaska 99801

Dear Mr. Tillion,

In considering the new or expanding forms of crime that might be expected to accompany the construction of the Trans-Alaskan Pipeline and the attendent rapid economic growth none is more needful of prompt legislative attention than the crime of extortion.

Extortion is the grandfather of racketeering crimes. The veiled threat of harm is the glue that holds together organized crime and, in the form of shakedown, characterizes the effect of its extention into the area of legitimate business.

The rendering of illicit services such as the commerce in illegal drugs, prostitution, loansharking and gambling is often referred to as victimless crime. Unfortunately, this is far from true. The principal victimization arises not so much from the transfer of goods and services but the accompanying extortion racket.

In prostitution, the girl who unwillingly plys her trade or pays over her earnings out of fear of getting her face sliced up is a victim. The "john" who pays a blackmail price to avoid having his indescretion exposed through the circulation of movies illicitly taken in the massage parlor or motel room is an extortion victim. The pusher of drugs who must push "or else" is an extortion victim. The gambling addict who is beaten up by collection agents is an extortion victim. Where racketeering enters legitimate business, extortion frequently accompanies its activities. The proprietor of a legitimate business who must pay arson "insurance" is an extortion victim. The businessman who must sell his business or walk in fear is an extortion victim. The list is practically endless. This is why I characterize extortion as the grandfather of racketeering crimes.

Until recently, extensive concern regarding this crime in Alaska has not been justified. Vice in Alaska has been casual and relatively unorganized. Unorganized crime or crime organized as small business is considerably less harmful to the general welfare of the community than crime as big business, centrally controlled, with tentacles reaching out into all facets of community life. One need not join the debate concerning the extent to which organized crime has already infiltrated the community to note that as big legitimate business comes to Alaska, big illegitimate business is undoubtedly more attracted.

Alaska's criminal statutes, which have not seen a major updating since their adoption, are not well designed to protect the public from this kind of crime. In my opinion a workable, far-reaching extortion statute is far and way the most valuable tool we could give to Alaskan law enforcement at this time.

I have prepared for your consideration a draft addition to the criminal code establishing the crime of extortion. It is adapted from the recommended provisions of the Model Penal Code. The crime is only inferentially referred to under AS11.30.230 which relates to nonfeasance of public officers.

Under my proposed version, the crime does not require proof of a direct threat. This is seldom the mode of operation of the gangster. He is more likely to suggest that harm will come from some other source and offer his protection. It is easy to see how paper protection services could arise selling, in reality, protection from fear of the seller's underworld connections.

The adoption of new laws is no panacea in the war against crime. Nor is it a substitute for public support for well paid and well trained law enforcement, prosecution and corrections officers. However, in the absence of a well articulated law of extortion, I think I have identified a major gap in the arsenal of defenses from crime available to the public and recommend it to you for adoption.

Sincerely,

John Havelock

JH: af

cc: Honorable Tom Fink
Honorable Terry Miller

Statement of former Attorney General Havelock on HB 794 An Act relating to the crime of extortion.
Before the House Judiciary Committee
April 1, 1974, 3:00 P.M.

Mr. Chairman:

In considering the new or expanding forms of crime that might be expected to accompany the construction of the Trans-Alaskan Pipeline and the attendent rapid economic growth none is more needful of prompt legislative attention than the crime of extortion.

Extortion is the grandfather of racketeering crimes. The veiled threat of harm is the glue that holds together organized crime and, in the form of shakedown, characterizes the effect of its extention into the area of legitimate business.

The rendering of illicit services such as the commerce in illegal drugs, prostitution, loansharking and gambling is often referred to as victimless crime. Unfortunately, this is far from true. The principal victimization arises not so much from the transfer of goods and services but the accompanying extortion racket.

In prostitution, the girl who unwillingly plys her trade or pays over her earnings out of fear of getting her face sliced up is a victim. The "john" who pays a blackmail price to avoid having his indescretion exposed through the circulation of movies illicitly taken in the massage parlor or motel room is an extortion victim. The pusher of drugs who must push "or else" is an extortion victim. The gambling addict who is beaten up by collection agents is an extortion victim. Where racketeering enters legitimate business, extortion frequently accompanies its activities. The proprietor of a legitimate business who must pay arson "insurance" is an extortion victim. The businessman who must sell his business or walk in fear is an extortion victim. The list is practically endless. This is why I characterize extortion as the grandfather of racketeering crimes.

Until recently, extensive concern regarding this crime is Alaska has not been justified. Vice in Alaska has been casual and relatively unorganized. Unorganized crime or crime organized as small business is considerably less harmful to the general welfare of the community than crime as big business, centrally controlled, with tentacles reaching out into all facets of community life. One need not join the debate concerning the extent to which organized crime has already infiltrated the community to note that as big legitimate business comes to Alaska, big illegitimate business is undoubtedly more attracted.

Alaska's criminal statutes, which have not seen a major updating since their adoption, are not well designed to protect the public from this kind of crime. In my opinion a workable, far-reaching extortion statute is far and way the most valuable tool we could give to Alaskan law enforcement at this time.

I have prepared for your consideration a draft addition to the criminal code establishing the crime of extortion. It is adapted from the recommended provisions of the Model Penal Code. The crime is only inferentially referred to under AS11.30.230 which relates to nonfeasance of public officers.

Under my proposed version, the crime does not require proof of a direct threat. This is seldom the mode of operation of the gangster. He is more likely to suggest that harm will come from some other source and offer his protection. It is easy to see how paper protection services could arise selling, in reality, protection from fear of the seller's under-world connections.

The adoption of new laws is no panacea in the war against crime. Nor is it a substitute for public support for well paid and well trained law enforcement, prosecution and corrections officers. However, in the absence of a well articulated law of extortion, I think I have identified a major gap in the arsenal of defenses from crime available to the public and recommend it to you for adoption.

HB-794 (Draft Cal. Revised Penal Code)

§ 1018. *Extortion*

1018. (a) A person is guilty of extortion when he obtains property of another by means of a threat to:

(1) Cause bodily injury to anyone, except under circumstances constituting robbery; or

(2) Cause damage to property; or

(3) Engage in other conduct constituting a crime; or

(4) Accuse anyone of a crime or cause criminal charges to be instituted against him; or

(5) Expose a secret or an asserted fact, whether true or false, tending to subject anyone to hatred, contempt, or ridicule, or to impair his credit or business repute; or

(6) Take or withhold action as a public servant or cause a public servant to take or withhold action; or

(7) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the defendant purports to act; or

(8) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(9) Inflict any harm which would not benefit the defendant.

(b) Extortion, as defined in paragraph (1) of subdivision (a) of this section, is a felony of the fourth degree. Otherwise, it is a felony of the fifth degree.

Comment

Section 1018 replaces a portion of Penal Code Section 518 and Sections 519 through 524. It expands the coverage of extortion to include general threats to inflict harm, but it does not proscribe legitimate economic bargaining.

§ 1020. *Unauthorized use of a vehicle*

1020. (a) A person is guilty of unauthorized use of a vehicle when he takes or operates a vehicle without the consent of the owner or of a person authorized by the owner to give consent.

(b) In a prosecution under this section, it is a defense that the person did not know that he was acting without the consent of the owner or of a person authorized to give

(original draft you sent me)

For an Act entitled: "An Act relating to the crime of extortion; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 11.20 is amended by adding a new section to read:

ARTICLE 4A. EXTORTION.

Sec. 11.20.345. ~~THEFT BY~~ EXTORTION. (a) A person is guilty of ~~theft~~ extortion if he obtains property of a person by threatening to or suggesting that another may

(1) inflict bodily injury on anyone or commit any other criminal offense; or

(2) accuse anyone of a criminal offense ; or

(3) expose confidential information tending to subject a person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(4) take or withhold action as an official, or cause an official to take or withhold action; or

(5) bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the person uttering the threat or suggestion purports to act; or

(6) testify or provide information or withhold testimony or information with respect to a person's legal claim or defense; or

(7) inflict any other harm which would not benefit the person uttering the threat or suggestion.

(or suggestion)

(b) A threat to perform any of the ~~harmful~~ acts described in ~~sub. (1)~~ (a) of this section includes an offer to protect another from any harmful act when the offeror has no apparent means to provide the protection or where the price asked for rendering the protection service is grossly disproportionate to its cost to the offeror.

(c) It is a ~~an affirmative~~ defense to prosecution based on (a) (2) (3) or (4) of this section that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

* Section 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

Model Penal Code provision that suggested draft came from — Note background material —

to exclude from the possibility of theft prosecution cases such as those in which a salesman misrepresents his political or lodge affiliations. It may be desirable on other grounds to punish such falsehoods, but they are too remote from the basic concern of Article 206, which is to protect property interests. By hypothesis in the cases covered by subsection (4) the deceived person received everything that he bargained for in the way of property.

Section 206.3. Theft by Intimidation.

A person commits theft if he obtains property of another by means of a threat to:

(1) inflict physical harm on the person threatened or any other person or on property; or

(2) subject any person to physical confinement or restraint; or

(3) commit any criminal offense; or

(4) accuse any person of a criminal offense; or

(5) expose any person to hatred, contempt or ridicule; or

(6) harm the credit or business repute of any person; or

(7) reveal any secret; or

(8) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

(9) bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded

or received for the benefit of the group which he purports to represent; or

(10) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(11) inflict any other harm which would not benefit the actor.

COMMENT

1. *General Scope.*

This section of the comprehensive definition of theft deals with situations where coercion rather than deception is the method employed to make the victim transfer his property. Related offenses in present law are designated as extortion, blackmail, demanding by menaces and robbery (excluding robberies effected by actual forceful deprivation rather than threat of force).

A threat need not be express. It is sufficient, for example, that the actor asks for money in exchange for his promise not to inflict physical harm, or in exchange for "protection" from harms where the actor intends to convey the impression that he will in some fashion instigate the harm from which he proposes to "protect" the victim. The threat may be implicit from the situation, as where a policeman while effecting an arrest asks for money and releases the prisoner from custody on receiving it. The draft covers oral as well as written threats in accordance with most current legislation in this field.

Although many jurisdictions require that the threat must be to harm the person from whom property is demanded, or members of his family, Section 206.3 covers threats to injure *anyone*, on the theory that if the threat is in fact the effective means of compelling another to give up property, the character of the relationship between the victim and the person whom he chooses to protect is immaterial. Whethe
related to the vic
effective for that
other trier of fact
as a matter of law
and no defendant
intimidation on t
chosen victim wou

Section 206.3
lative pattern in
must be threatene
extortion. A law
purpose of obtain
tion of accepted ec
which ought not t
persuade others
patent or trade m
to change a will, t
business, to sue, t
most part these a
economy must tol
as an incident to f
adequate to deal v
economic bargain
trust laws, labor
would be quite in

The threater
actor may be pr
harm which he t
harm to coerce
he clearly belon
should be applie
a duty to make
to arrest unless
extortionate alth
he did not arres

material. Whether a threat to injure a third person, unrelated to the victim, was intended to intimidate or was effective for that purpose can be decided by the jury or other trier of fact. There is no justification for providing as a matter of law that such threats can never intimidate, and no defendant should escape liability for an effective intimidation on the ground that persons other than the chosen victim would not have been intimated.

Section 206.3 is consistent with the prevailing legislative pattern in providing a list of particular harms which must be threatened in order to come within the offense of extortion. A law which included *all* threats made for the purpose of obtaining property would embrace a large portion of accepted economic bargaining. Examples of menaces which ought not to be included are: to breach a contract, to persuade others to breach their contracts, to infringe a patent or trade mark, to change a will or persuade another to change a will, to refuse to do business or to cease doing business, to sue, to vote stock one way or another. For the most part these are situations in which a private property economy must tolerate considerable "economic coercion" as an incident to free bargaining. Civil remedies are usually adequate to deal with abuse of the privilege. Some coercive economic bargaining may call for legal restriction by anti-trust laws, labor legislation and the like; but theft penalties would be quite inappropriate.

The threatened harm need not be "unlawful". The actor may be privileged or even duty-bound to inflict the harm which he threatens; yet if he employs the threat of harm to coerce a transfer of property for his own benefit clearly belongs among those to whom theft sanctions should be applied. The case of the policeman who is under duty to make an arrest illustrates the point. His threat to arrest unless the arrestee pays him money is clearly extortionate although the policeman would be derelict if he did not arrest.

2. *Physical Harm to Person or Property.*

The restriction of subsection (1) to physical harms is to avoid application of this subsection to strikes, boycotts, threats to compete or to infringe a trade-mark, and other economic coercions which require to be dealt with specially.

3. *Physical Confinement.*

Confinement is separately specified in subsection (2) to eliminate the possibility that "physical harm" in subsection (1) might not be held to cover kidnapping or confinement in a jail or mental institution.

4. *Any Criminal Offense.*

Although this category in subsection (3) largely overlaps the preceding two subsections, it has an additional application in a situation like this: A racketeer obtains property from another racketeer by threatening to operate houses of prostitution or illegal gambling enterprises in competition with him. Threat to compete would not ordinarily come within Section 206.3 because the right to compete is one which, under some circumstances in our society, may be bargained away. However, where the competition itself would be criminal activity, there is no need to immunize a threat to engage in that activity, used for the purpose of extortion.

5. *Threat to Accuse of Crime.*

The threat to accuse another of any crime is expressly included in nearly every American extortion statute. The only source of dispute is the question of the relevance of the fact that the victim has in fact committed the crime. In a few of the jurisdictions in which the question has been raised, it has been held that actual commission is relevant, not as a complete defense, but as tending to rebut an "intent to extort" where the crime committed has damaged the

defendant and the property extorted appears to be reasonable reparation for the damage done. Thus, even in this minority of states, there is no question of requiring that the threat be to lodge an "unlawful" charge of crime. The actual commission of the crime to be charged bears rather on defendant's good faith claim of right to the property extorted.

6. *Threat to Defame.*

There is widespread legislative precedent for subsection (5) covering threats to expose anyone to hatred, contempt or ridicule. There is considerable variation in the wording of existing formulations, common variants being cast in terms of "exposing or publishing any infirmities or failings" and "exposing or imputing any deformity or disgrace." These provisions are generalized in the Model Code in terms of the public reaction which the defendant threatens to evoke rather than the nature of the unpleasant things he threatens to say. Although the prescribed behavior is closely related to defamation, it is much broader in scope. Whereas the publication of defamation is often privileged, "selling" forbearance from defamation can never be.

7. *Threat to Credit or Business Repute.*

This class of threats, covered by subsection (6), is akin to the threat of personal defamation covered by subsection (5), but would not be reached under that subsection's formula related to "hatred, contempt or ridicule". Threats to harm credit are specifically included in a few extortion statutes.

8. *Secrets.*

Most secrets would be of the character covered by other subsections, particularly subsection (5) relating to

defamation. However, more than a quarter of the state extortion statutes include special provision for secrets, and the Model Code adopts this practice to reach non-defamation situations like the following: (1) A discloses to B in confidence that A plans to build a factory at X, requiring a large-scale land acquisition program. B threatens to reveal the information and so cause land prices to rise; (2) C, having worked in D's factory, threatens to reveal D's secret unpatented processes to D's competitors; (3) E threatens to make public disclosure that F is the adoptive rather than natural son of G and H.

9. *Official Action.*

The typical case covered by subsection (8) is extortion under color of office, as where an elevator inspector or tax collector threatens to report violations which might lead to large non-criminal penalties. The offense lies close to that of bribery, and the same transaction may constitute both crimes, but if the element of intimidation be present, the present section will apply. The element of intimidation also serves to distinguish this crime from provisions found among "crimes against the government" prohibiting the acceptance of gifts in connection with official conduct. A threat to bring about adverse official action may, of course, be made by one who is not himself an official.

10. *Strikes; Boycotts.*

Subsection (9) reaches the threat of collective unofficial sanctions where an official of a trade association or union, for example, is lining his own pocket by employing coercive power which he is supposed to wield on behalf of his organization. Where the demand is on behalf of the organization, the section does not apply even though the demand may go beyond any honest claim of right. This is because it would be unwise to subject these bargaining

processes to serious
may turn on nice que
of a strike.

11. *Giving or Re*

A provision com
to testimony in crir
Revision of the Wisc

12. *Other Threa*

Any particulariz
be incomplete. Sub
ciple on which other
timidation". Exam
and not be covered
are: (a) the foreman
workers to pay him a
dismissal or other emp
friend of the purchas
tains money from an
influence the purchasi
where; (c) a professo
threatening to give hi

Section 206.4. Theft b
tion of

(1) In General.
agreement, or subject
specified payment or
property or its proc
equivalent amount, co
erty obtained as his
payment or dispositi

8. Wisconsin Leg. Coun
9. Cf. the kickback stat
Sec. 962.

processes to serious risk of criminal sanctions, where guilt may turn on nice questions of what is a "lawful objective" of a strike.

11. *Giving or Refusing Testimony.*

A provision comparable to subsection (10) but limited to testimony in criminal cases appears in the proposed Revision of the Wisconsin Criminal Code.[8]

12. *Other Threats.*

Any particularization of criminal threats is bound to be incomplete. Subsection (11) states the general principle on which other threats are to be included within "intimidation". Examples of situations which might occur and not be covered in other subsections of Section 206.3 are: (a) the foreman in a manufacturing plant requires the workers to pay him a percentage of their wages on pain of dismissal or other employment discrimination;[9] (b) a close friend of the purchasing agent of a great corporation obtains money from an important supplier by threatening to influence the purchasing agent to divert his business elsewhere; (c) a professor obtains property from a student by threatening to give him a failing grade.

Section 206.4. Theft by Failure to Make Required Disposition of Funds Received.

(1) In General. A person who obtains property upon agreement, or subject to a known legal obligation, to make specified payment or other disposition, whether from such property or its proceeds or from his own property in equivalent amount, commits theft if he deals with the property obtained as his own and fails to make the required payment or disposition, unless the actor proves that his

[8] Wisconsin Leg. Council (1953 Report, Vol. V) Sec. 343.26.

[9] Cf. the kickback statutes. 18 U.S. Code Sec. 874; N.Y. Penal Law

HB-781

Alaska Retail Association

Box 1727 Anchorage, Alaska 99510
Phone: 337-2915

March 20, 1974

Representative Clem Tillion, Chairman
House Judiciary Committee
Assembly Annex
Juneau, Alaska 99801

Re: HB 781

Dear Mr. Chairman;

House Bill 781 introduced by the Commerce Committee is basically a rewrite of HB 95 which was passed by the House and Senate in 1973 and then vetoed by the Governor.

Representatives of the Alaska Retail Association have since been in contact with the Governor and others in the Administration in order to arrive at a solution satisfactory to all concerned.

On March 19, 1974, Stan Fisher, Assistant Attorney General, stated that the Administration position on HB 781 is that the Governor will allow this bill to become law if the bill is passed by the House of Representatives and the Senate without reduction of the criminal penalties as they appear in the present bill.

Sincerely,

Donald R. Magnusson

Donald R. Magnusson
Executive Director

TESTIMONY RE: HB 576

08.68.200, 251, and 260 all indicate that the board MAY issue a license by endorsement, reinstatement or renewal IF in the opinion of the board the applicant is professionally competent.

The absence of any such provision in 08.68.270, "Grounds for denial," creates a problem for the board. They feel that they need a specific provision in 270 to support any action they may deem necessary in the denial of a license on the grounds of incompetency.

By the inclusions in 08.68.200, 251 and 260, the intent of the law is quite clear and as a housekeeping measure the proposed change would clarify the grounds for denial, suspension or revocation in section 08.68.270.

J. Ray Roady

J. RAY ROADY, DIRECTOR

Sec. 08.68.140. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.68.150. Expenses. Members of the board are entitled to the per diem and travel expenses allowed by law. (sec 7 ch 90 SLA 1957)

Article 2. Examination and Licensing

Sec. 08.68.160. License required. A person practicing or offering to practice professional or practical nursing in the state shall submit evidence that he is qualified to practice, and shall be licensed under this chapter. (sec 1 ch 90 SLA 1957)

Sec. 08.68.170. Qualifications of professional nurse applicants. An applicant for a license to practice professional nursing shall submit to the board on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant is of good moral character, has completed an approved four year high school course of study or the equivalent as determined by the appropriate educational agency, and has successfully completed (1) a professional nursing education program accredited by the board or; (2) a professional nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state at the time the applicant graduated; or (3) a professional nursing education program accredited by the National League for Nursing at the time the applicant graduated. (sec 8 ch 90 SLA 1957)

Sec. 08.68.180. Qualifications of practical nurse applicants. (a) An applicant for a license to practice practical nursing shall submit to the board on forms prescribed by the board written evidence, verified by oath, that the applicant is of good moral character, has completed the tenth grade or its equivalent as determined by the appropriate educational agency, is not less than 18 years of age, and has successfully completed (1) a practical nursing education program accredited by the board; or (2) a practical nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state.

(b) A qualified student of the Mt. Edgecumbe School of Practical Nursing who was graduated before January 1, 1959, and had eighth grade pretraining is eligible for a license. (sec 9 ch 90 SLA 1957)

Sec. 08.68.190. License by examination. The applicant shall pass a written examination in the subjects which the board prescribes. The board shall issue a license to an applicant who passes the examination to practice professional nursing or practical nursing provided the other qualifications outlined in sections 170 and 180 of this chapter are also met. The board shall conduct examinations annually and as often as it considers necessary. (sec 10 ch 90 SLA 1957)

Sec. 08.68.200. License by endorsement. The board may issue a license by endorsement to practice professional nursing or to practice practical nursing, whichever is appropriate, to an applicant who is licensed as either a professional nurse or a practical nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant meets the qualifications required for licensing in the state, and meets the requirements of either section 170 or section 180 of this chapter, whichever is applicable. (sec 11 ch 90 SLA 1957; am sec 1 ch 37 SLA 1970)

Effect of amendment.-The 1970 amendment inserted "by endorsement," "to practice," and "whichever is appropriate." The amendment also inserted "either" preceding "a professional nurse," inserted "a" preceding "practical nurse," and substituted "either section 170 or section 180 of this chapter, whichever is applicable" for "sections 170 and 180 of this chapter."

Sec. 08.68.210. Temporary permits. (a) The board may issue a temporary permit, nonrenewable and valid for a period not exceeding four months, to an applicant for a license by endorsement if he

(1) submits proof satisfactory to the board that he is currently licensed in another state, territory, or foreign country,

(2) meets the requirements of either section 170 or section 180 of this chapter, whichever is applicable, and

(3) pays the required fee.

(b) The board may issue a nonrenewable permit to an applicant for license by examination if he meets the qualifications of section 170 or section 180 of this chapter, whichever is applicable, and pays the required fee. The permit will be valid for a period not extending beyond the time when the results are published of the first examination the applicant is eligible to take after the permit is issued. (sec 11 ch 90 SLA 1957; am sec 2 ch 37 SLA 1970)

Effect of amendment.-The 1970 amendment inserted "by endorsement" in this section.

Sec. 08.68.220. Fees. The following fees shall be imposed under this chapter when applicable:

(1) for professional or registered nursing

(A) application fee.....$20

(B) license by examination fee..... 20

(C) license by endorsement fee..... 20

(D) biennial license renewal fee..... 15

(2) for practical or vocational nursing

(A) application fee.....$15

(B) license by examination fee..... 15

(C) license by endorsement fee..... 15

(D) biennial license renewal fee..... 15
(sec 13 ch 90 SLA 1957; am sec 1 ch 80 SLA 1960; am sec 5 ch 94 SLA 1968; am sec 2 ch 81 SLA 1969; am secs 3, 4 ch 37 SLA 1970)

Effect of amendments.-The 1969 amendment rewrote this section.
The 1970 amendment substituted "endorsement" for "reciprocity" in (C) of paragraph (1) and in (C) of paragraph (2).

Sec. 08.68.230. Use of title and abbreviation. (a) A person licensed to practice professional nursing in the state may use the title "licensed professional nurse," "registered nurse," and the abbreviation "R.N.".

(b) A person licensed to practice practical nursing in the state may use the title "licensed practical nurse," or "licensed vocational nurse," and the abbreviation "L.P.N." or "L.V.N.". (sec 14 ch 90 SLA 1957)

Sec. 08.68.240. Nurses licensed or holding temporary permits under previous law. A person holding a license to practice professional or practical nursing in the state under prior law is considered licensed as a professional or practical nurse. (sec 15 ch 90 SLA 1957)

Sec. 08.68.250. Renewal of license.
Repealed by sec 3 ch 81 SLA 1969.

Sec. 08.68.251. Lapsed licenses. A lapsed license may be reinstated if it has not remained lapsed for more than five years. If the license is lapsed for more than five years and the board has reason to believe that the person applying for reinstatement of his license no longer has sufficient knowledge to carry out the duties of a licensed nurse, the board may require the applicant to take and pass the examination given under section 190 of this chapter. (sec 3 ch 81 SLA 1969)

Revisor's note (1969).-
In ch 81 SLA 1969 this section was numbered AS 08.68.250.

Sec. 08.68.260. Inactive nurses. A licensed nurse may

apply to be placed on the inactive list. The inactive nurse may engage in the practice of nursing by submitting an application for renewal and the current biennial renewal fee to the board [illegible] renewal certificate. If the board has reason to believe that the applicant for a renewal certificate no longer has sufficient knowledge to carry out the duties of a licensed nurse, the board may require the applicant to take and pass the examination given under section 190 of this chapter. (sec 16 ch 90 SLA 1957; am sec 2 ch 80 SLA 1960; am sec 4 ch 81 SLA 1969)

Effect of amendment.-The 1969 amendment rewrote this section.

Sec. 08.68.270. Grounds for denial, suspension or revocation. The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, suspend or revoke the license of a person who

(1) has obtained or attempted to obtain a license to practice nursing by fraud or deceit;

(2) has been convicted of a felony;

(3) has been convicted of a crime involving moral turpitude;

(4) is habitually intoxicated or is addicted to the use of narcotics;

(5) has impersonated a professional or practical nurse;

(6) is guilty, in the opinion of the board, of negligence which has resulted in serious injury to a patient;

(7) is mentally ill or mentally incompetent;

(8) is guilty of unprofessional conduct;

(9) has willfully or repeatedly violated any of the provisions of this chapter. (sec 20 ch 90 SLA 1957)

Cited in Lange v. Martin, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963).

C.J.S. references.-53 C.J.S. Licenses section 44; 70 C.J.S. Physicians and Surgeons sec 16.

Article 3. Nursing Education Programs

Sec. 08.68.280. Nursing education program prohibited un-

HB-511

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

February 6, 1974

M E M O R A N D U M

TO: Representative Helen M. Fischer

FROM: Stuart C. Hall, Legislative Counsel

SUBJECT: Release on Parole (HB 511)

It has come to my attention that to be effective, your bill requiring that at least one third of a sentence be served before a prisoner may be released on parole would be more effective if two other sections of AS 33.15 were amended. To amend sec. 80 and to fail to amend secs. 180 and 230(1) would result in a conflict in the statute. Accordingly, I am submitting to you for your consideration a Sponsor Substitute for HB 511 which amends these latter two sections in question to conform with the amendment to sec. 80 suggested by Judge Lewis and should resolve questions that might otherwise arise during the course of a hearing on the bill.

SCH:cb

Same as note on first one.

#E-145

Legal Issues

There are two major legal issues regarding mandatory dedication of land or fees-in-lieu of land for schools and parks as a prerequisite to subdivision plat approval: (1) whether the conceived purpose of the regulation comes within the constitutional limits of the police power--the protection of health, safety and morals, or the general welfare. And, (2) whether the specific requirements are "reasonable," that is, whether they exceed the limitations on the exercise of regulatory power.[3]

The Constitutionality of Subdivision Exactions

Subdivision regulations requiring the mandatory dedication of land or fees-in-lieu of land as a precedent to plat approval must generally be authorized by state legislation. Several states have passed dedication and fees-in-lieu provisions statutes.[4] One indication of the increasing interest in such legislation is the ACIR State legislative Program for 1970[5] in which a bill (reproduced in Appendix A) is proposed for mandatory dedication of park and school sites. In its introduction to the model draft bill, ACIR states that it is now generally recognized that land for open space, park and recreation areas, and school sites is a vital feature of sound subdivision design. Providing land is as necessary as is providing common physical facilities, such as streets and sewers.

California has one of the finest examples of state enabling legislation in the Quimby Act (AB 1150 of Chapter 1809). This section reads as follows:

> Section 1. Section 11510 of the Business and Professions Code is amended to read:
>
> 11510. "Design." Refers to street alignment, grades and widths, alignments and widths of easements and rights-of-way for drain-

---

[3]Ibid., p. 1122.

[4]Arkansas -- Ark. Stat. Ann. 19-2829 (Supp. 1959); Washington -- Wash. Rev. Code 58. 16.120 (1951); Minnesota -- Minn. Stat. Secs. 462. 351-462.363 (1965); California -- Business and Professions Code section 11546, Ab 1150, chapter 1809 (1965); New York -- Section 277, Town Law, Section 179-1, Village Law, Section 33, General City Law; Hawaii (proposed) S.B. No. 282 (1966). ASPO did not survey states concerning enabling legislation for subdivision dedication and/or fees-in-lieu requirements and does not contend that this list is complete.

[5]Advisory Commission on Intergovernmental Relations, ACIR State Legislative Program: New Proposals for 19[illegible]. (Washington, D.C.: Advisory Commission on Intergovernmental Relations, 19[illegible]) p. 11-37-60,1.

In New York and Wisconsin, where enabling legislation neither specifically authorizes nor forbids a municipality to require park land and school site dedication or fees-in-lieu, such provisions have been upheld in principle in the courts.[7] It is when enabling legislation neither expressly permits nor prohibits the requirements for dedication or fees-in-lieu of dedication of land as a precedent to plat approval that there is a problem for municipalities that desire to use such requirements.

The courts are far from a consensus on the constitutionality of requiring dedications as a condition to subdivision approval. Also, few courts have been very precise in identifying the constitutional principles that underlie their decisions. Because the courts have depended far more on the general welfare aim of the police power doctrine than strictly on the nuisance doctrine,[8] the weight of court opinion recently has shifted to express approval of subdivision exactions.

Common subdivision exactions, such as the dedication of streets, are designed to minimize the impact of the subdivision on the municipality and are supported by the general welfare aim of police power. The arguments used to support these requirements, such as access for fire and police protection and the need for rational street plans, have been uniformly accepted by the courts in upholding these requirements.[9] In the two leading cases on the question, Ayres v. City Council of Los Angeles and Brous v. Smith, one judgment is clearly identifiable. A landowner or developer can be required to pay for improvements which are generated by his use of the land whether or not the community is also benefited by the expenditure.[10] It is the obligation of the subdivider to "comply with reasonable conditions for design, dedication, improvement, and restrictive use of the land so as to conform to the safety and general welfare of the lot owners in the subdivision and of the public."[11]

---

[7]Jenad, Inc. v. Village of Scarsdale, 18 N.Y.2d 78, 721 N.Y.S.2d 955 (1966), reversing 256 N.Y.S.2d 777 (S.C. 1965); Jordon v. Village of Menomonee Falls, 137 N.W.2d 442 (Wis. 1965).

[8]Heyman and Gilhool, "The Constitutionality of Imposing Increased Community Costs," p. 1123.

[9]Ibid., p. 1130.

[10]Ibid., p. 1132.

[11]Although the Ayres case actually ruled against the dedication requirements, the court's broad ruling has been interpreted to uphold such a requirement when the enabling legislation did not directly provide for such dedication. See S. Roy Woodall, Jr. "Mandatory Dedication of Playgrounds and Parks in Residential Subdivision," Kentucky Law Journal, Vol. 50 (1962), 614.

PARK DEDICATION ACT – HB 445

Purpose: Permits local governments to enact ordinances to require dedication of park land or make payments in lieu of dedications in connection with subdivision approvals. Does not require local governments to adopt ordinances on subject.

Precedent: Developers are now required to dedicate streets, sidewalks and utility rights of way as a condition to plat approval.

Application: Primarily in more dense urbanizing areas such as ~~Geneva Woods~~ Nunaka Valley in Anchorage and Island Homes in Fairbanks. A park dedication policy in Fairbanks in the 1950's would have probably resulted in one or two lots being set aside as a neighborhood playground or park in Island Homes, Fairbanks.

Usual Ordinance Format: Most California local governments (counties and cities) have adopted park dedication ordinances since enactment of 1967 Act authorizing them to do so. Walnut Creek in the San Francisco Bay Area has a particularly good program having saved many creeks (as linear parks and green belts) from destruction and having created numerous small neighborhood parks and playgrounds in newly developing subdivisions. General policy is to require little or no dedications or payments for large lot (one acre and larger) subdivisions and greater dedications per dwelling unit for more dense subdivisions, e.g. townhouse-condominiums projects with density over 10 units to an acre. However, this must be left to

local governments as there may be a clear cut need for neighborhood parks and playgrounds in an area such as O'Malley Road and Birch Road in Anchorage (strong local demand for a neighborhood park in an area now used by children next to O'Malley School).

There may be no land suitable for development as parkland in a proposed subdivision in which case in-lieu fees would be paid to develop parks nearby.

Benefits: More attractive and livable subdivisions. Subdivisions with no provision for play areas and parks are hostile to children. Sometimes creeks, swales, hills and other attractive but hard to develop areas are dedicated to the benefit of the developer and the homeowner alike. Trails can be built along creeks for recreation and to get children to school without using roads. This has been done throughout Fremont, California, a rapidly growing blue collar community in the San Francisco Bay Area (population of about 100,000).

Costs: The costs are negligible to a responsible developer as he will make provision for parks and playgrounds in any event, just as he will comply with building codes. In practice a park dedication ordinance does not appreciably increase costs of housing per unit.

Judiciary Committee Report

on

HOUSE BILL NO. 175 and HOUSE BILL NO. 176

The House Judiciary Committee has had before it House Bill No. 175, which establishes a narcotics and dangerous drugs enforcement unit in the division of state troopers, and House Bill No. 176, which appropriates $500,000 to the Department of Public Safety to fund the new unit for the fiscal year ending June 30, 1974. The committee has adopted committee substitutes for both bills. CSHB 175 changes the unit established in the division of state troopers to the narcotic drugs enforcement unit and CSHB 176 lowers the appropriation for the unit to $350,000.

The committee has heard testimony on both bills from the Department of Public Safety. From this testimony and other committee discussion, it is the understanding of the committee that the intent of these two bills is to provide manpower and funding to curtail the traffic in narcotic drugs by cutting off the shipment and sale of narcotic drugs in the state.

From this testimony and committee discussions, it was concluded that creation of a narcotic drugs enforcement unit is in the public interest and would provide needed assistance in halting the wholesale importation and distribution of narcotic drugs. Creation of the new unit would not curtail or interfere with the routine policing of the use of dangerous drugs, but would give the Commissioner of Public Safety an additional tool to prohibit the flow of narcotic drugs to, from, and through the state.

The intent of the committee is to restrict the use of these funds to prevent the introduction of narcotic drugs into Alaska. The words "dangerous drugs" are omitted to insure that the funds are not to be used in the routine enforcement of dangerous drugs laws, such as those pertaining to marijuana, amphetamines, and others.

The Judiciary Committee is also sponsoring a bill which addresses itself to the areas of drug use prevention and rehabilitation. If the law enforcement program as proposed in CSHB No. 175 is successful, a significant number of addicts will be apprehended and in need of maintenance and rehabilitation programs. This will be an additional number to those who are already known to be in need of these services. The introduction of this measure will assure a more comprehensive approach to crime prevention.

Clem Tillion

Clem Tillion, Chairman
House Judiciary Committee

HB-175 + 176

STATE of ALASKA HB 1-31 130

MEMORANDUM Bob HARTIG

TO: Commissioner E. W. Chapple, Jr.
Department of Public Safety
Juneau

DATE: November 1, 1972

FROM: Colonel M. E. Dankworth
Director
Division of State Troopers

SUBJECT: Drug Enforcement Program Proposal

As I suggested to you before, in the event we are requested to come up with an enforcement solution to the narcotics problem I have prepared the attached report for your consideration.

STATE
of ALASKA

MEMORANDUM

TO: Commissioner E. W. Chapple, Jr.
Department of Public Safety
Juneau

DATE : October 25, 1972

FROM: Colonel M. E. Dankworth
Director
Alaska State Troopers

SUBJECT: Drug Enforcement Program Proposal

Pursuant to my discussion with you concerning what I think would be an effective program in combating narcotics in the State, I submit the attached. I am probably a little bit excessive in my estimates on lab services and buy money, however we could not afford to implement a program and then run out of funds for these two essential elements.

This program is designed to be compatible with an LEAA project if opportunity arises. It is, in my judgment, essential that we come up with a satisfactory program (as the one I am submitting) rather than doing nothing or making any proposal just because the City of Anchorage could eliminate our participation in LEAA funds by refusing to participate.

I am completely confident that with the attached program we could be very effective in curtailing drugs in the State.

DRUG ENFORCEMENT PROGRAM

Statement of Problem

Illegal drugs are coming into Alaska every day by means of vehicle, airplane, boat and on the person of individuals. These drugs are being distributed to every city and village in Alaska where levels of law enforcement vary from fair to no enforcement at all. The State Troopers have statewide jurisdiction but lack "buy money", undercover operatives and drug abuse investigators. The local jurisdictions have the same problem, along with jurisdictional problems and communication problems between agencies. In the major cities, particularly Anchorage and Fairbanks, there are numerous addicts and though records of arrests do not give a total drug abuse picture, they indicate the problem is severe.

Enforcement efforts throughout the state are spotty at best. From time to time a good undercover operative will be developed by one jurisdiction but due to a lack of exchange policy, personnel rules and lack of funds this undercover operative is generally used only in one area. The fact is, if the agencies were coordinated and staffed and funded to handle this operative, he could be utilized statewide to great advantage.

The problem is greater and more far reaching than just drug abuse violations themselves. Other crimes such as robbery, larceny, burglary are on the upswing and a great percentage of these crimes can be traced directly to drug motivations. It has been estimated that approximately two million dollars worth of property is stolen annually in Alaska by persons attempting to support their drug habits.

Studies in the Anchorage area indicate there has been a definite increase in the use of opiates in the school system. It is strongly felt that this increase in Anchorage represents a parallel increase throughout the state. The increase of cost of illegal drugs also compounds the problem. Approximately two years ago the cost of a kilo of marijuana was between $150 - $180.00. At the present time the street value is $200.00+/pound, $140.00/kilo. Corresponding the price of cocaine and heroin has risen to the point that the smallest amount one can purchase on the streets at the present time is a $25.00 balloon and generally speaking $50.00 is a small purchase. The normal slip at this time is going for approximately $100.00. Along with this is the experience we have had in past drug cases in court where the defense brings up the fact that if a suspect is arrested with small amounts, or even if the suspect sells a sample amount to an undercover officer, this is indicative of a user rather than a pusher. The fact is, to make a good

sound case on a narcotic pusher, it is necessary to purchase large quantities to convince the court and override the defense that the pusher is in fact a pusher. This of course makes drug enforcement a very expensive business.

A successful drug enforcement program in Alaska must have a statewide emphasis and direction. The drug violator must feel equal amounts of enforcement pressure in whatever location of the state he is in, and all agencies both state and local must have adequate support in funding and information sharing.

Objective of the Program

To form a statewide drug enforcement unit within the Criminal Investigation Bureau is the prime objective. This unit would be composed of a supervisor, six investigators and five undercover operatives. Following is the breakdown of assigned locations and responsibilities of these individuals on a proposed basis.

1. The supervisor, in conjunction with the CIB commander, would coordinate the hiring and movement of undercover operatives, the movement of statewide drug intelligence and the everyday supervision of the enforcement effort. Specific attention would be paid to coordination with the various local agencies throughout the state to make sure that a joint enforcement effort is applied throughout the state.

2. Three investigators, one of which would be the marijuana dog handler, would be assigned in Anchorage, along with two undercover operatives. It would be the primary responsibility of these investigators to work with the City of Anchorage and the federal Bureau of Narcotics and Dangerous Drugs to suppress drugs in the Anchorage area. The primary point of emphasis would be the Anchorage International Airport.

3. One investigator and one undercover operative would be assigned to the Fairbanks area. The responsibility would be to work closely with the Fairbanks Police Department to suppress drug abuse violations in the Fairbanks area.

4. Two investigators and two undercover operatives would be assigned to Anchorage with a statewide responsibility. As the need should arise they would set up an undercover operation in detachment areas or upon request in small communities throughout the state. The continuous

movement of these investigators and undercover operatives will keep the enforcement pressure on the criminal in all corners of the state.

(It is important that on all undercover operations the undercover officer be covered by a drug abuse investigator. This cover officer will coordinate, corroborate and substantiate those statements of the undercover officer, along with providing cover and support for the operative. The cover officer will assist in the identification of persons with whom the operative does business, keeping in daily contact and making the necessary reports that make a successful case.)

The objective would be to increase the enforcement pressure at all points of entry into Alaska, to make available investigator and undercover operatives to all areas of the state in a coordinated effort. This will equalize enforcement pressure and centralize drug intelligence statewide.

The overall objective will be to reduce and control illegal drugs within the state.

(See attached "Projected Expense (Budget)")

Description of Implementation and Expected Results

This enforcement program will give the support needed to promote and operate a statewide enforcement effort within the framework of the CIB. Presently the CIB has drug investigators; but, due to the aforementioned problems, does not have a really effective and coordinated drug enforcement program.

To be effective on a statewide basis, agencies must cooperate fully and quite frankly at the present time most agencies do not. With this proposed program, the State would be in a position to offer assistance to local agencies both in manpower and money. This would force cooperation in a unified enforcement effort.

One specific problem will have to be resolved, and that is the personnel rules in hiring undercover operatives. The budgeted expense in the attached projected expense section catalogs the position as a trooper in "A" step. This is for pay purposes only, due to the fact that a good undercover operative does not generally meet trooper job requirements. Additionally it is impossible to comply with existing personnel rules if a truly

professional undercover operative is to be hired and if the necessary confidentiality is to be maintained.

The overall accomplishment of the program is expected to be a strong, equalized enforcement effort throughout the state, which in turn should reduce substantially drug violations within the State of Alaska.

PROJECTED EXPENSE (BUDGET)

A. Salaries and Wages (Object Code - 100)

Position	Monthly	Annual
(1) Supervisor (Anch - Range 18 step C)	$1362.00	$16,344.00
(1) Trooper (Fbx - Range 16 step C)	1313.00	15,756.00
* (5) Trooper (Anch - Range 16 step C)	1176.00	70,560.00
(5) Trooper (Anch - Range 16 step A) Undercover Officers	1092.00	65,520.00
(1) Clerk Typist III (Anch - Range 8 step C)	652.00	7,824.00

* NOTE: Three trooper positions presently are in CIB assigned to drugs investigations.

Sub Total $176,004.00

B. Travel and Per Diem (Object Code - 200)

$30.00 per day per diem for 2 investigators and 2 undercover officers for 180 days per person, plus 13 days per diem for supervisor... $21,990.00

Travel for supervisor, investigators, and undercover officers within state (average $200 per trip) 16 trips... 3,200.00

Travel for supervisor to lower 48 for coordination and intelligence with other law enforcement agencies - 2 trips... 600.00

Sub Total $ 25,790.00

C. Consultants and Contractual Services (Object Code 300)

Car Rental - 2 cars Anch @ $200/month, 12¢/mile (500 miles/month) 1 car Fbx @ $225/month, 14¢/mile (500 miles/month) 1 car statewide @ $225.00/month, 14¢/mile... $14,120.00

Lab Service, 1000 tests @ $28.00 per test... $28,000.00

Test Kits @ $28.00 per refill (20 kits, 2 refills per year for CIB and local Departments test kits).... $ 1,120.00

Sub Total $ 43,240.00

D. Supplies and Operating Expenses (Object Code 400)

* Buy money for drugs for five undercover officers for twelve months.... $30,000.00

Communications (telephone).... $ 600.00

Marijuana Dog Expense 600.00

Sub Total $ 31,200.00

** NOTE: Existing budget has x amount set aside in this area.

GRAND TOTAL $276,334.00

HB-157

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER / POUCH B — JUNEAU 99801

March 12, 1973

The Honorable Charles Degnan
Alaska State House of Representatives
Pouch V - State Capitol Building
Juneau, Alaska 99801

Dear Representative Degnan:

In accordance with your request of March 7, 1973, please find enclosed a completed fiscal analysis for House Bill 157.

As requested, we have based our analysis on Fiscal Year 1973 total approved entitlements determined under the present provisions of AS 43.18.010. We have also not attempted to project the cost of this amendment into Fiscal Year 1974 or beyond.

Very truly yours,

Don Argetsinger, Director
Administrative Services

DA:pat

Enclosure

EFFECT OF HOUSE BILL 157

ELECTION DISTRICTS		FY 73 ENTITLEMENT		
(1)	1, 7 or 8 - 100.0			
(8)	Anchorage Borough	$2,120,242		
(1)	Ketchikan Borough	123,568		
(7)	Matanuska-Susitna Borough	98,492		
(8)	Anchorage (City of)	1,596,165		
(1)	Craig	13,398		
(8)	Girdwood	6,990		
(8)	Glen Alps	11,475		
(7)	Houston	375		
(1)	Hydaburg	11,630		
(1)	Ketchikan (City of)	201,025		
(1)	Klawock	3,632		
(7)	Palmer	51,195	HB 157	COST
(1)	Saxman	1,710	COST-OF-LIVING	of
		$4,239,897	DIFFERENTIAL	HB 157
			$4,239,897	-0-
(2)	2 or 9 - 103.8			
(2)	Kake	$ 14,432		
(2)	Petersburg	86,075		
(9)	Seward	68,150	HB 157	COST
(2)	Wrangell	79,210	COST-OF-LIVING	of
		$ 247,867	DIFFERENTIAL	HB 157
			$ 257,286	$ 9,419

ELECTION DISTRICTS		FY 73 ENTITLEMENT		
(3)	3, 4, 5E or 16S - 107.5			
(16S)	Fairbanks Borough	$ 680,886		
(4)	Juneau Borough	577,958		
(3)	Sitka Borough	179,528		
(3)	Angoon	16,000		
(16S)	Delta Junction	19,290		
(16S)	Eagle	3,405		
(16S)	Fairbanks (City of)	529,420		
(5E)	Haines (City of)	41,341		
(5E)	Hoonah	11,220		
(16S)	North Pole	12,746		
(5E)	Pelican	6,300		
(5E)	Skagway	33,175	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
(3)	Tenakee Springs	3,304		
		$2,114,573	$2,273,166	$ 158,593
(4)	10 or 11 - 111.5			
(10)	Kenai Borough	$ 248,844		
(11)	Kodiak Borough	49,014		
(10)	Homer	41,961		
(10)	Kenai (City of)	136,545		
(11)	Kodiak (City of)	116,125		
(11)	Old Harbor	11,575		
(11)	Ouzinkie	3,126		
(11)	Port Lions	14,290		
(10)	Seldovia	18,890	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
(10)	Soldotna	56,619		
		$ 696,989	$ 777,143	$ 80,154

ELECTION DISTRICTS		FY 73 ENTITLEMENT		
(5)	6 or 15 (Nenana only) - 115.8			
(6)	Cordova	75,899		
(15)	Nenana	21,135		
(6)	Valdez	38,142	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
(6)	Whittier	18,382		
		$ 153,558	$ 177,820	$ 24,262
(6)	5W or 12 - 120.0			
(12)	Aleut Comm. of St. Paul	$ 7,000		
(12)	King Cove	8,811		
(12)	Sand Point	17,350		
(12)	Unalaska	71,830	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
(5W)	Yakutat	454		
		$ 105,445	$ 126,534	$ 21,089
(7)	18 - 124.7			
(18)	Brevig Mission	$ 4,000		
(18)	Diomede	450		
(18)	Elim	1,690		
(18)	Gambell	12,800		
(18)	Golovin	1,730		
(18)	Koyuk	5,830		
(18)	Nome	114,618		
(18)	Saint Michael	6,170		
(18)	Savoonga	10,200		
(18)	Shaktoolik	7,650		
(18)	Shismaref	4,235		
(18)	Stebbins	5,505		

ELECTION DISTRICTS		FY 73 ENTITLEMENT		
(7) 18 - 124.7 (cont.)				
(18)	Teller	$ 7,315		
(18)	Wales	1,725		
(18)	White Mountain	3,000	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
		$ 186,918	$ 233,087	$ 46,169
(8) 13 or 15 (except Nenana) - 129.4				
(13)	Bristol Bay Borough	$ 19,499		
(15)	Aniak	3,075		
(15)	Anderson	15,980		
(15)	Anvik	1,915		
(13)	Dillingham	29,250		
(15)	Galena	8,470		
(15)	Grayling	2,505		
(15)	Holy Cross	14,532		
(15)	Huslia	20,100		
(15)	Kaltag	2,170		
(15)	Lower Kalskag	1,950		
(13)	Manokotak	9,060		
(13)	Nondalton	7,672		
(15)	Nulato	7,665		
(15)	Shageluk	7,605		
(15)	Tanana	10,950	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
(13)	Togiak	3,830		
		$ 166,228	$ 215,099	$ 48,871
(9) 17 - 134.2				
(17)	Ambler	$ 11,099		
(17)	Anaktuvuk Pass	625		

ELECTION DISTRICTS		FY 73 ENTITLEMENT		
(9) 17 - 134.2 (cont.)				
(17)	Barrow	$ 50,754		
(17)	Buckland	1,875		
(17)	Deering	2,125		
(17)	Kiana	9,840		
(17)	Kivalina	2,910		
(17)	Kotzebue	69,325		
(17)	Noorvik	9,480		
(17)	Point Hope	9,700		
(17)	Selawik	6,915		
(17)	Shungnak	1,650		
(17)	Wainwright	5,460	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
		$ 181,758	$ 243,919	$ 62,161
(10) 14, 16N or 19 - 139.3				
(14)	Akiak	$ 5,970		
(14)	Akolmiut	14,520		
(19)	Alakanuk	16,350		
(14)	Bethel	104,982		
(19)	Chevak	4,470		
(14)	Eek	6,820		
(19)	Emmonak	11,860		
(19)	Fortuna Ledge	15,125		
(16N)	Fort Yukon	23,615		
(14)	Goodnews Bay	9,700		
(19)	Hooper Bay	11,340		
(16N)	Kaktovik	3,020		

ELECTION DISTRICTS		FY 73 ENTITLEMENT		
(10)	14, 16N or 19 - 139.3 (cont.)			
(19)	Kotlik	$ 7,915		
(14)	Mekoryuk	10,916		
(19)	Mountain Village	19,534		
(14)	Napakiak	7,185		
(19)	Pilot Station	10,617		
(19)	Russian Mission	7,465		
(19)	Saint Mary's	29,863		
(19)	Scammon Bay	1,660		
(14)	Toksook Bay	8,350		
(14)	Tuluksak	8,270		
		$ 339,547	HB 157 COST-OF-LIVING DIFFERENTIAL $ 472,989	COST of HB 157 $ 133,442

TOTALS

ELECTION DISTRICTS	FY 73 ENTITLEMENT	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
1, 7 or 8 - 100.0	$4,239,897	$4,239,897	$ -0-
2 or 9 - 103.8	247,867	257,286	9,419
3, 4, 5E or 16S - 107.5	2,114,573	2,273,166	158,593
10 or 11 - 111.5	696,989	777,143	80,154
6 or 15 (Nenana only) - 115.8	153,558	177,820	24,262
5W or 12 - 120.0	105,445	126,534	21,089
18 - 124.7	186,918	233,087	46,169
13 or 15 (except Nenana) - 129.4	166,228	215,099	48,871
17 - 134.2	181,758	243,919	62,161
14, 16N or 19 - 139.3	339,547	472,989	133,442
	$8,432,780	$9,016,940	$ 584,160

HB-335

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

March 12, 1974

M E M O R A N D U M

TO: Members of the House Judiciary Committee

FROM: Randolph Berry, Legislative Counsel

SUBJECT: Validity of Alien Land Ownership Restrictions

The original common law rule with regard to alien ownership of real property was that an alien could acquire land by grant or devise (e.g., purchase), but land would not pass to an alien by inheritance or descent. In 1880, the United States Supreme Court stated that the right of aliens to own real property within a state was determined by the law of that state, and that the state was free to change the common law rule so long as it did not conflict with federal law or a treaty between the United States and a foreign nation. (Hauenstein v. Lynham, 100 U.S. 628)

In 1913, California enacted its Alien Land Law which permitted aliens eligible for citizenship to acquire, own, possess, transmit and inherit real property in the same manner and to the same extent as citizens of the United States, but prohibited aliens ineligible for citizenship from acquiring ownership of or other rights in real property except as prescribed by treaty between the United States and the nation or country of which the alien was a citizen or subject. (Under the 1913 version of the law ineligible aliens were permitted to lease land for agricultural purposes, but this provision was deleted in 1920.) The California law was directed particularly at Japanese and other Orientals, since at that time the only aliens eligible to become U. S. citizens were free white persons and persons of African nativity or descent. The law provided that property acquired in violation of the law or through a transaction intended to evade the law was subject to escheat to the state, and that persons conspiring to violate the provisions of the law were subject to criminal liability. The law also created certain presumptions of intent to evade the restrictions where real property was paid for by an alien and the ownership granted to a citizen.

Other Pacific Coast states enacted similar alien land laws patterned closely after the California act. Since the treaty between the United States and Japan only provided for the ownership of land by Japanese nationals for purposes of trade and commerce, and not agriculture, these laws uniformly prohibited Japanese from owning or leasing land for agricultural purposes.

In a series of decisions in 1923, the Supreme Court upheld the alien land laws and the states' power, in the absence of contrary treaty provisions, to prohibit the ownership of land by aliens who have not declared their intention to become citizens. The court indicated that it considered that a state has a sufficient special interest in the ownership of land within its borders to justify classification on the basis of alienage in this instance and satisfy the equal protection clause of the Fourteenth Amendment. (Terrace v. Thompson, 263 U.S. 197; Porterfield v. Webb, 263 U.S. 225; Webb v. O'Brien, 263 U. S. 313; Frick v. Webb, 263 U.S. 326.)

The most recent decision by the Supreme Court involving the alien land laws was in 1948 in Oyama v. California, 332 U.S. 633. In that case, the court held unconstitutional, as a violation of the equal protection clause, the presumption against validity of real estate transfers paid for by an alien, where that presumption was applied to invalidate ownership by a citizen child of land paid for by his alien father. (The court stated that the discrimination against a citizen child based solely on the basis of his alien parentage which resulted in depriving the citizen of his property could not be justified under the equal protection clause when there was no actual evidence of intent or conspiracy on the part of the child to evade the law.) The majority decision did not reach the question of the constitutionality of the California alien land law itself; however, in two separate concurring opinions four justices indicated their view that the alien land law violated the equal protection clause and should be invalidated.

Although I found no further U. S. Supreme Court cases since Oyama, supra specifically dealing with alien land ownership restrictions, there have been several cases involving other restrictions by states on the rights of aliens. (Takahashi v. Fish & Game Commission, 334 U.S. 410 (1948); Graham v. Richardson, 403 U.S. 365 (1971); Sugarman v. Dougall, 413 U.S. 634 (1973); Application of Griffiths, 413 U.S. 717 (1973)) In these cases the court has expanded the protection of aliens under the equal protection clause and narrowed the scope of the special public interest doctrine which was the basis for its decisions in the alien land ownership cases.

In Graham v. Richardson, a case dealing with restrictions on alien eligibility for welfare and public assistance, the court stated:

> "Under traditional equal protection principles, a State retains broad discretion to classify as long as its classification has a reasonable basis.... But the court's decisions have established that classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a 'discrete and insular' minority. . . for whom such heightened judicial solicitude is appropriate. Accordingly, it was said in Takahashi that, . . . 'the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits.' " [citations omitted]

By inherence, the court cast doubt on its willingness to any longer uphold the special public interest doctrine:

> ". . . the special public interest doctrine was heavily grounded on the notion that '[w]hatever is a privilege rather than a right, may be made dependent upon citizenship.'. . . But this Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a 'right' or as a 'privilege.' "

So for the constitutionality of HB No. 335, although the U. S. Supreme Court has not to date overruled its earlier decisions that legislation restricting ownership of real property by aliens is within the legitimate bounds of state authority, in my opinion the court is moving steadily in that direction and would likely do so if it is again presented with the question. In the period since the Oyama and Takahashi decisions, there have been several state court decisions in other states invalidating alien land laws, and there has been a general movement away from alien land ownership restrictions.

One distinction between HB No. 335 and the alien land laws considered in the above-discussed decisions is that HB No. 335 is directed at nonresident aliens, while the California and other similar legislation applied to resident aliens. The decisions under the equal protection clause generally speak to resident or "lawfully admitted" aliens. It is possible that a court would be persuaded that a state has a greater special public interest in seeing land within the state owned by citizens and resident aliens who would be subject to jurisdiction of U. S. courts and consequently HB No. 335 may have a greater chance of survival than restrictions aimed at resident aliens.

However, it seems likely that contact with the state through the ownership of land in the state and presence or submission by aliens to the jurisdiction of court for purposes of challenging the act would be sufficient to bring him within the coverage of the equal protection clause.

It should also be noted that sec. 1, art. I of the Constitution of the State of Alaska, which contains the state's version of the equal protection clause, applies to "all persons", making no distinctions between citizens, aliens, residents or non-residents.

RB:cb

Bob Pavitt - Governor's

HB 328 2/18/74

It is an unfortunate fact of American governmental life that we have come to believe that "reorganization" will bring the solution to all of our ~~[illegible]~~ problems. The exact opposite is frequently the case ... in addition to the same woes we are trying to cure, we find ourselves with a ~~[illegible]~~ piece of clanking bureaucracy that sets up an entirely new hierarchy of political and functional difficulties that must be addressed by Legislative and administrative ~~[illegible]~~ as well as the long-suffering public.

No one would deny that we have transportation problems in Alaska, not that they are serious and vexing issues. Anchorage, Fairbanks and Juneau desperately need improved urban, suburban and commuter public transportation facilities. Bethel, Dillingham, Nome, Kotzebue and Barrow need improved air service as well as a viable system linking them more conveniently with the bush communities that they serve. The Seward Peninsula needs an internal surface transport system and a deep-draft port if the people of that area are to reap the benefits of the vast storehouse

of mineral and energy resources with which that remote region has been so richly blessed. I could go on at length regarding the needs of the several regions of our vast state, but I am sure that I am not telling you anything that is new or startling to you.

Nor am I revealing anything extraordinary when I cite some of the constraints that have traditionally made conventional transportation planning techniques inapplicable in Alaska ... matters like rugged topography, swamps, permafrost, heavy snowfall, high winds and so on and so forth.

Transportation is inexorably linked with land use, which, in turn is dependent on a number of factors which are particularly fluid in Alaska at this time. The Native Claims Settlement Act with its many ramifications of "deficiency" selections, Village withdrawals, and the controversial (d)(2) or National Interest lands has precluded logical land use planning, and has made land status critical as a prime determinant of future land use. The social and cultural mores of many of the

Native people as well as the economic need to harvest fish & game resources on a subsistence basis have generated opposition to certain surface routes... notably those that could connect remote areas to urban centers, thereby generating traffic and sports hunters competing for scarce game and fish. Yet, failure to reserve transportation corridors (particularly through federal withdrawals) may forever foreclose the provision of needed transportation routes, and thus seriously limit the options available to the Natives as new and extensive landowners.

Equotes from (d)(2) testimony 3 X

P/R Gov's "Rep" to N.T.N.S - '72
" " " N.T.S. - '74

Coordinate the planning efforts of H'ways, Div. Aviation, Div. Marine Trans, and the Planning agencies of Anc. Boro, Juneau & Ketch. into a multi-modal comp'h'sive presentation of Alaska's transportation picture to the US DOT.

2. strong cabinet-level "advocates"... no advantage, perhaps many disadvantages in

setting up a super-agency and a super-commissioner

Mr. Eppenbach

HB-253

investment is insured by the federal government or an agency of the federal government; (6) deposits with state and national banks in Alaska to the extent that the investment is insured by the federal government or an agency of the federal government; (7) loans guaranteed by the division of veterans' affairs under AS 26.15.040(b); (8) (deleted) (AND) (9) the guaranteed portion of Small Business Administration loans; (10) first lien real estate mortgages guaranteed by the federal Veterans Administration; (11) notes secured by mortgages of commercial or residential real estate or other security if the mortgages are insured by a corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least $20,000,000; (12) conventional residential mortgages if the originating financial institution retains at least 25 per cent of the mortgage for a minimum of two years; (13) notes secured by mortgages of commercial real estate if the originating financial institution retains at least 25 per cent of the mortgage; (14) FHA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972; (15) guaranteed portion of loans made under the Federal Ship Financing Act of 1972. No more than 25 per cent of the surplus may be invested in mortgage securities of the Department of Commerce, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay on the notes. No more than $400,000 of the surplus may be invested annually in the mortgage securities of the Department of Natural Resources, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay

HB-253

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION
POUCH SB–JUNEAU 99801

February 1, 1974

The Honorable Clem V. Tillion
Chairman, House Judiciary Committee
Assembly Apartments
Juneau, Alaska 99801

Dear Representative Tillion:

The Committee Substitute to House Bill 253 increases the eligible investments for the Public Employees and Teachers Retirement systems to include Federal Veterans Administration guaranteed mortgages, commercial and residential mortgages insured by private mortgage insurance companies, conventional residential mortgages made in Alaska when originating financial institution retains at least 25 per cent of the mortgage for a minimum of two years, commercial mortgages secured by real estate if original financial institution retains 25 per cent of the mortgage, FHA guaranteed business and industrial loans, and guaranteed loans made under the Federal Ship Financing Act of 1972.

At the present time, the retirement funds can purchase FHA mortgages, State Veterans mortgages, and guaranteed portions of Small Business Administration loans. The new permission will round out the types of mortgages that will qualify for purchase, increase the likelihood that there will always be mortgages available for purchase, create needed secondary markets within the State for some of these mortgages, and provide a high rate of return for the retirement funds. For example, we have purchased over $12 million of SBA loans since adding them as permissible investments a little over a year ago. Very few SBA loans were being made by the banks prior to our entering the market. Interest rates on these loans range from 8 per cent to 11 per cent, providing an excellent return for the retirement funds.

All of the requested additions are either guaranteed or insured with the exception of conventional residential and commercial real estate loans with bank participation. However, in both of these cases we require that the loans be closed after the effective date of this Act, and that the financial institutions retain a minimum of 25 per cent of the loan for two years in the case of residential and permanently in the case of commercial. As an added protection, no loan is eligible for purchase that is held by the institution for a period greater than 90 days.

By assuming this slight additional risk the funds will receive at least 1/2 to 1 per cent greater return depending on market conditions. For example, the present yield available on FHA and VA is around 8.40%, conventional residential rates are averaging 9.50%, and commercial 10% to 11%.

Each retirement fund has over $1 million available for investment each month. A great portion of these funds can be placed in long term investments without concern for having to generate cash for drawdowns. Alaska mortgages are ideal investments for these funds and with this added authority can be purchased in increasing numbers.

Very truly yours,

Richard E. Alexander
State Investment Officer

REA:ge

HB-253

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 4, 1974

M E M O R A N D U M

TO: House Judiciary Committee members

FROM: Randolph Berry

SUBJECT: CS for House Bill No. 253 (Judiciary) relating to the investment of surplus retirement fund money.

House Bill No. 253 added two additional types securities to the list of those in which the commissioner of revenue could invest the funds of the teacher retirement system and the public employee's retirement system. These additional types of securities were;

(1) real estate mortages guarnteed by the Federal Veterans Administration; and

(2) notes secured by real estate mortgages guaranteed by a qualifying private mortgage insurer.

CS for House Bill No. 253 by the State Affairs Committee added one more type of security to the list: conventional residential mortgages if the originating financial institution retained 25 per cent of the mortgage. In order for a conventional residential mortgage to qualify, it would have to have as a mortgagor an Alaskan resident, be made after the effective date of the act and be a new mortgage (no more than 90 days old) when purchased by the commissioner of revenue.

CS for House Bill No. 253 (Judiciary) adds three further categories of qualifying securities;

(1) notes secured by commercial real estate mortgages if the originating financial institution retains 25 per cent of the mortgage.

(2) The FHA guaranteed postion of business and industrial loans made under the Rural Development Act of 1972, and

(3) the guaranteed postion of loans made under the Federal Ship Financing Act of 1972.

The Judiciary Committee substitute reduces the time period during which the originating financial institution is required to retain

its 25 per cent of a conventional residential mortgage from the life of the mortgage to two years. Consequently, after two years, the commission could, but is not required to, purchase the remaining 25 per cent of the mortgage. The Judiciary committee substitute also adds an immediate effective date.

RB:sw

HB 248

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY
ATTORNEYS AT LAW
P. O. BOX 1211
JUNEAU, ALASKA 99801

200 NATIONAL BANK OF ALASKA BLDG.
PHONE 586-3340
CABLE ADDRESS: NOMEA

R. E. ROBERTSON (1885-1961)
M. E. MONAGLE
F. O. EASTAUGH
J. B. BRADLEY
W. G. RUDDY
L. B. JACOBSON
R. B. BAKER
H. T. THOMAS

March 9, 1973

Mr. Clem Tillion
Chairman
House Judiciary Committee
Juneau, Alaska 99801

Re: House Bill 248

Dear Mr. Tillion:

On behalf of American Insurance Association, which is a trade association of some 110 stock companies, which include, according to my information, all companies writing surety bonds, I wish to oppose the enactment of the subject bill.

Primarily the objection is that enactment of surety funds of a variety limited only by the imagination of the authors would weaken the corporate bond system of protection that is long established as the best and least expensive system of providing financial protection to those who need it.

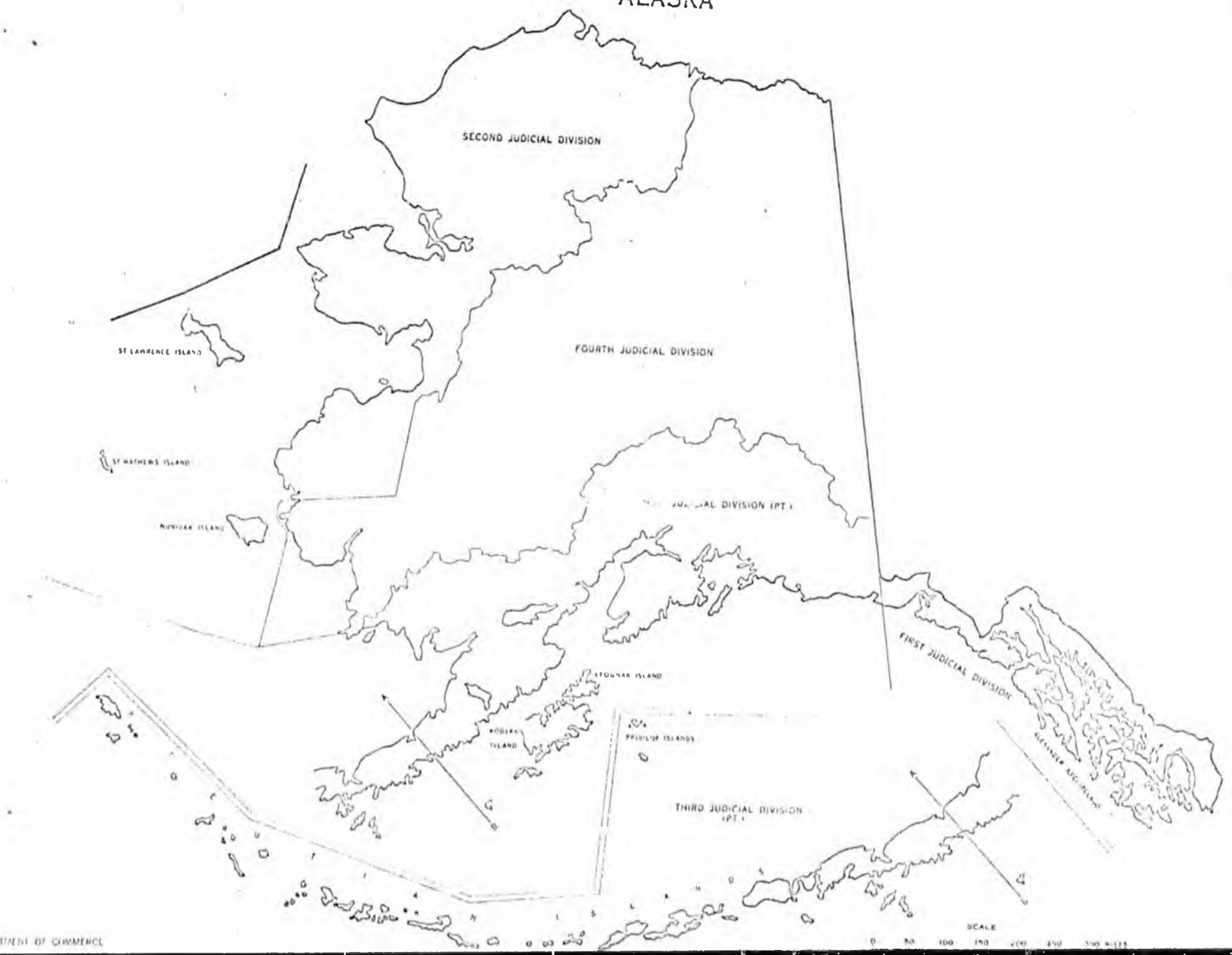
Surety bonds for real estate brokers and salesmen in Alaska cost $76.00 and $20.00 respectively for two years, or $38.00 and $10.00 annually. This bill would increase the cost to $75.00 and $20.00 annually. There is no assurance that the fund so created would provide the protection needed, or that it could be maintained at the $100,000.00 or $150,000.00 level.

Furthermore, the bill would impose hardships on the claimant who I suggest is the real party in interest from the public interest standpoint.

Under the present system, one action joining the surety results in the determination of the issue

HB-232
Judicial Districts

ALASKA



DEPARTMENT OF COMMERCE

HB-212

TO: Mr. Dick Randolph, Chairman, House Commerce Committee
Members of the Committee

FROM: Ralph Sanders, Managing Director
Alaska Carriers Association

DATE: March 2, 1973

During the first State Legislature when AS 42.10 was enacted, everyone overlooked the necessity to put in language ~~that~~ which would permit the very legitimate function of oil company "Wholesale Distributors" to continue. The same oversight had already occurred throughout the western states. They have already discovered their omission and have amended their laws in the same manner that House Bill 212 would amend Alaska's.

A full explanation of how this type or method of marketing and distributing petroleum products, together with an explanation of the "bailee" concept is given below for your information.

The wholesale marketing of bulk petroleum products in Alaska has, for over 30 years, been handled by oil companies through a system of wholesale distributors. These are independent businessmen who are under contract with their suppliers to promote the sale of the suppliers' product by receiving, storing, handling, collecting money and transporting petroleum products to the consumer. These wholesale distributors do not own the suppliers' product as the terms of sale are between the supplier and consumer. Distribution of the product, including transportation has traditionally been recognized under the private carrier section of the transportation statute. The distributor acts only as a bailee with reference to the product sold - a bailee being a person who takes custody of someone elses property for a specific purpose - in this case, to promote the sale of the suppliers' product.

Under the present Alaska statute, the private carrier definition only clearly provides for private carrier status when property being transported is owned, being bought, or sold by the carrier. The "bailee concept" for private carriage, while it has been recognized in interpretation of the statute, is nevertheless not clearly spelled out.

At the time of statehood the private carrier definition was taken from the statute then in effect in Washington State. Shortly thereafter the Washington statute was modified to clearly include the bailee concept. House Bill 212 is patterned after the current Washington statute and also

follows the private carrier statutes in effect in other western states and the U. S. transportation code.

The additional wording requested in Alaska statutes 42.10.-050 and 42.10.270 is to eliminate conflict in regard to compensation and private carriage.

Very sincerely,

Ralph

Edward R. Sanders
Managing Director

HB-187

Appendix I

Comparison of State No-Fault Laws

State	*Benefits*	*Applicability*	*Tort Limitation*	*Prompt Payments*	*Insurance Requirements*
Connecticut	$5,000 of medical and disability benefits.	Private passenger motor vehicle (other than motorcycle) or vehicle with load capacity of 1,500 lbs. or less not used for commercial purposes other than farming.	No limitation of tort liability if party sustained death, permanent injury, fracture of any bone, permanent significant disfigurement, permanent loss of body function or loss of body member, and cost in excess of $400 for medical expenses.	Benefits are overdue if not paid within 15 work days of proof of loss. Overdue payments bear 12 percent interest.	Mandatory.
Delaware	$10,000/$20,000 medical expense, earnings, personal services — funeral limited to $2,000 per person. Deductibles available.	All motor vehicles: any person injured in a motor vehicle accident.	No actions permitted for damages otherwise indemnified under compulsory insurance.	No specific provision.	Compulsory for all motor vehicles (self-insurer exception).
Florida	$5,000 per person medical, disability and funeral. Deductibles available.	All motor vehicles: owner, relative resident in same household, other occupants of insured vehicle, pedestrians.	$1,000 threshold. No recovery for certain general damages when medical expense under threshold.	Benefits payable as losses accrue. Payments are overdue 30 days after filed proof of loss.	Compulsory for all motor vehicles.
Illinois*	Basic: $2,000 medical and funeral, lost wages and loss of services for one year. Optional excess: excess medical, $2,000 funeral, lost wages and loss of services, and survivor's benefit for 5 additional years — aggregate limit of $50,000/$100,000.	All private passenger vehicles insured. Coverage may be made available for any other motor vehicle: named insured, relatives residing in same household, guest passengers, permissive operators, pedestrians.	Formula applied to certain general damages recovery limited to 50 percent of medical expense under $500 and 100 percent of medical expense over $500.	Benefits payable as losses accrue. Payments overdue after 30 days. Willful delay subjects insurer to treble damages.	Voluntary purchase of insurance.
Maryland	$2,500 economic loss benefits which cover medical bills and wage loss.	All motor vehicles.	No limitations.	Benefits payable as claims arise or within 30 days of proof.	Compulsory for all motor vehicles.
Massachusetts	All medical expenses, loss of wages and loss of services for 2 years.	All motor vehicles: named insured, relatives of same household, authorized operators and passengers, pedestrians.	$500 threshold. No recovery for certain general damages when medical expense under threshold.	Benefits payable as losses accrue. Payments overdue after 30 days.	Compulsory for all motor vehicles.
Michigan	Unlimited medical and rehabilitation; work loss, $1,000 maximum per month for 3 years; property damage other than auto, $1 million.	All motor vehicles which are operated on public highways and have more than 2 wheels.	No action permitted unless death, serious impairment of body function, serious permanent disfigurement.	Benefits payable within 30 days. Overdue interest at rate of 12 percent.	Compulsory for all motor vehicles.
New Jersey	Unlimited medical expenses, $5,200 loss of wage benefits, $4,380 loss of services, and $1,000 funeral and survivor's benefits.	Private passenger automobile, including pick-up or panel body vehicle.	No limitation of tort liability if party sustained death, permanent disability, permanent significant disfigurement, permanent loss of body function or loss of a body member in whole or part, and soft tissue injuries exceeding $200 of medical expense.	Payment of benefits are overdue if not paid within 30 days and will collect interest at a rate of 10 percent per annum.	Compulsory.
Oregon	$3,000 medical, $6,000 disability. Loss of services. One-year limitation.	All insured private passenger vehicles: named insured, relatives of same household, guests, pedestrians.	No limitation.	Benefits payable as losses accrue.	Voluntary purchase of insurance.

*Statute declared invalid by the Illinois Supreme Court.

HB 187

Appendix II

Statement by the National Conference of Commissioners on Uniform State Laws Concerning the Uniform Motor Vehicle Accident Reparations Act

The fault system as an efficient means of determining who shall be compensated for injury has long been questioned. The original purpose for the fault system probably was to provide a kind of immunity against liability for the new industrial developments of the early and mid-nineteenth century. Railroads appear to have been the particular beneficiary. If the railroads had been liable for all the injuries they caused in their early history, they likely would not have made the economic gains that they did. The fault system replaced predecessor strict liability concepts. Its natural effect was to leave some people uncompensated, though injured. The gain to the national weal was an economic gain, and one open to challenge in human terms.

No judge, of course, foresaw the automobile and its impact during that early development of the fault system. Nobody knew that the automobile would be the dominant technological influence upon life in the United States, or that it would cause so much difficulty in the personal injury area. When the automobile appeared, the fault system was almost fully entrenched. Without estimating what they were doing, the courts simply applied the tort theories in automobile accident cases, and ultimately these cases became the overwhelming majority of tort cases. Little or no account was made in the law for the tremendous destructive capacity of the automobile, in terms of human lives and physical injury.

The toll in lives and injury, by the way, is overwhelming. There is no need to go over statistics. The National Safety Council readily provides them, and we are generally aware of their magnitude. It suffices to say that the automobile takes a toll unequaled by any war or series of wars entered into by this country. The problem is very rightly considered to be a national one.

Although the toll mounts, no answer to the compensation of the injured has been proposed until now, save through the fault system and the liability insurance system which has been grafted on to it. Liability insurance, as it presently is conceived, guarantees only that the injured party in an automobile accident has a possibility of some compensation. Even if there is compensation, nothing can be guaranteed about its adequacy. So, the prognosis after some years of experience indicates that the fault system, buttressed by the current liability insurance system, simply has not done a very good job of providing compensation to the multitude of the injured. The result is a large social cost measured in terms of loss of produ and unnecessary transferral of economic burdens for those who are in

The specific criticisms have been distilled to the following:

1. A great many victims of automobile accidents are denied pensation entirely.
2. Compensation, when granted, is usually delayed.
3. Benefits are distributed capriciously, without regard for losses.
4. Benefits are malapportioned, with the lesser injured rec overcompensation most often, and those injured more severely rec undercompensation.
5. Benefits are allocated in a lump sum, the method least conduc rehabilitation.
6. Benefits received are not coordinated to eliminate duplication
7. There is inefficiency in the expenditure of the premium dolla the greater portion of it going to administration and litigation.
8. The system, with its fee arrangements, encourages overre for benefits and downright dishonesty.

To provide a remedy for the defects in the current system and to value for the dollar of insurance premium paid, mere palliatives a enough. A thoroughgoing reform is essential.

The Uniform Motor Vehicle Accident Reparations Act, as pr gated by the National Conference of Commissioners on Uniform Laws, is the most thorough proposal for reform of the system yet available. It provides a basis for administering comprehensive, first insurance coverage for insured victims of automobile accidents. Th does not exclude the possibility of tort recovery entirely, but it limit possibility to those parties with legitimate interest in recovery beyon system of basic first-party benefits.

The insurance system established in the Uniform Motor Vehicle dent Reparations Act is a compulsory one. Every motorist must security for basic reparations benefits plus a minimum of $25,000 li coverage per person per accident for bodily injury and $10,000 per dent for property damage. Insurers may also make available a ran optional coverages for added reparations benefits and for harm to ve and their contents. An insurer must offer collision coverage subject $100 deductible. An assigned claims plan is created for an injured for whom no responsible source of benefits may be found. There is al assigned risk program for those who have difficulty obtaining insur Other provisions relate to prompt payment of benefits, to reallocatio loss costs, and to cancellations or nonrenewals of insurance.

The Uniform Motor Vehicle Accident Reparations Act is a complete motor vehicle insurance Act. Any State adopting its provisions will be assured of having a system eliminating the defects of the fault system while simultaneously establishing a comprehensive insurance system. The National Conference of Commissioners on Uniform State Laws hopes that all States will give it serious consideration. Copies of the Uniform Motor Vehicle Accident Reparations Act are available from the Conference, 1155 East 60th Street, Chicago, Illinois 60637.

* * *

The following basic description of the key provisions of the Uniform Act is taken from the Prefatory Note which accompanies the official print.

Basic Reparation Benefits

Basic reparation benefits are the minimum benefits which, with few exceptions, are provided without regard to fault for all persons injured and the dependent survivors of persons killed in motor vehicle accidents. They are:

1. Payment of all reasonable medical and rehabilitative expenses without limit.

2. Reimbursement up to an aggregate of $200 per week:

a. For lost earnings from work the injured person would have performed but for the injury. In computing the amount of work loss benefits payable, earnings received from substitute employment and benefits received from social security, workmen's compensation, and state required non-occupational disability insurance would be subtracted as would an amount not to exceed 15 percent for actual income tax savings, and

b. Reimbursement for the reasonable expense of replacement services which the injured person would have performed for himself or his family but for the injury. For the first week after injury, such expenses are excluded from benefits.

3. In the case of death, payment up to $200 per week to those survivors who would be entitled to recovery under the State's wrongful death laws for the economic support and value of necessary replacement services which they would have received from the decedent but for the injury causing death, subject to subtractions and exclusions similar to those mentioned above.

4. In the case of death, payment of funeral or burial expenses not to exceed $500.

Losses to be reimbursed by basic reparation benefits are not limited either as to aggregate amount or as to time period over which incurred.

Optional Deductions and Exclusions from Basic Reparations Benefits

Insurers are required to offer, with appropriate premium reductions, certain specified optional deductions and exclusions from basic reparation benefits applicable only against benefits otherwise payable to the named insured and members of his family unit. These include:

1. Flat deductibles of $100, $300, and $500 from the total of all benefits payable on account of any one accident.

2. A flat deductible of $1,000 per accident from all benefits payable on account of injury to an operator or passenger on a motorcycle.

3. An exclusion of 10 percent of the benefits which would otherwise be payable for work loss and survivor's loss.

4. An exclusion of all replacement services loss.

In addition, insurers may, but need not, offer an optional contingent exclusion of benefits actually received from other specified sources of benefits.

Denial or Restriction of Benefits to Certain Persons

These persons who would otherwise be entitled to basic reparation benefits are excluded from or restricted in the recovery of benefits:

1. A person who intentionally causes or attempts to cause injury or death to himself or another is disqualified from all benefits for injury or death arising from his acts. In the event of death of a person who intentionally injures himself, his survivors are disqualified.

2. An intentional converter of a motor vehicle and, in the event of his death, his survivors, are excluded from all benefits for losses arising from use of the converted vehicle except under an insurance policy under which he is a basic reparation insured. However, a converter who is under the age of 15 may recover benefits through the assigned claims plan.

3. A person who has the legal responsibility (usually an owner) to maintain required security for payment of tort judgments and basic reparation benefits either by having insurance or by being an approved self-insurer and fails to do so is denied benefits from the assigned claims plan to the extent of $500 for each year of continuous noncompliance, and is subject to all optional exclusions and deductibles.

Tort Exemptions and Retained Tort Liabilities

Tort liability arising from ownership, maintenance or use of a motor vehicle is abolished, except as to:

1. Owners, including a government, who have not provided security for payment of basic reparation benefits and tort judgments as provided by the Act;

2. Intentionally caused harm to person or property;

3. Damages for work loss, replacement services loss and survivor's loss of support and services uncompensated by basic reparation benefits by reason of the standard weekly limit of $200 on such losses, but only if the injured person dies or is disabled for more than six months;

4. Damages in excess of $5,000, for noneconomic detriment (i.e., pain and suffering, etc., but not punitive damages) if there is permanent significant loss of body function or death or permanent serious disfigurement or more than six months of total disability;

5. Damage to property other than motor vehicles and their contents; and damage to motor vehicles caused by operators of parking lots and storage garages.

As the modification of the tort law is only in the form of an exemption from tort liability arising from ownership, maintenance or use of a motor vehicle and there is no tort liability created by the Act, tort liability is retained only to whatever extent it now exists. Auto manufacturers, repair shops, and railroads all remain potentially liable in tort under present law when they are causally involved in motor vehicle accidents.

As damage to motor vehicles or their contents is not covered by basic reparations benefits, the only source of recovery for damage to a vehicle and its contents resulting from an accident causally involving only motor vehicles would be optionally purchased first-party collision insurance on the vehicle. Insurers are required to offer various alternative forms of first-party collision coverage, including a limited form of collision coverage based upon fault.

Insurers providing basic or added reparations benefits have a right of subrogation to tort recoveries to the extent the damages recovered are of a type compensated for by the insurance. An insurer having paid medical expenses and wage loss under basic reparations benefits coverage is not entitled to subrogation to proceeds of a claim for pain and suffering damages.

Security for Basic Reparation Benefits and Tort Liability, Priority of Source, Assigned Claims Plan, Added Coverages, Assigned Risks

Every owner (including the State and its political subdivisions) of a motor vehicle registered *or* permissively operated in the State is required to provide and maintain security for the payment of basic reparation benefits and for the payment of tort liability judgments, the minimum required limit for the latter being $25,000 per person per accident for bodily injury and $10,000 per accident for property damage. Other governmental owners, including the federal government, may come under the Act by voluntarily providing security. As to private owners, security may be provided by qualifying insurance or approved self-insurance. A governmental owner may provide security by lawfully obligating itself to pay benefits as well as by insurance or approved self-insurance.

In general, the source of basic reparation benefits for a person incurring injury or loss in a motor vehicle accident would be as follows, in order:

1. for any occupant of a vehicle used in the business of transporting persons or property, including the driver, and for any employee or member of his family driving or occupying a vehicle furnished by his employer, the insurance on the vehicle;

2. for any person insured under a policy of basic reparations insurance, either as named insured or as resident member of his family unit, that policy of insurance, even if he is a pedestrian or occupant of a vehicle owned by another at the time of injury;

3. for any person not insured under a policy of basic reparation insurance but injured while occupying a vehicle, the insurance covering that vehicle;

4. for any person not insured under a policy of basic reparation insurance and not injured while an occupant of a vehicle (e.g., a pedestrian) the insurance covering any vehicle involved in the accident;

5. for any person for whom a responsible source of benefits does not exist or cannot be identified (e.g., uninsured occupant of uninsured vehicle; uninsured pedestrian injured by hit and run; insolvent insurer), the assigned claims plan which insurers are required to establish and operate under supervision of the insurance commissioner.

There are various provisions in the Act designed to achieve maximum compliance with the requirement that security be provided by insurance or self-insurance. Provision is also made for the administrative regulation of the terms of the insurance policies.

Insurers may offer a range of optional coverages and provisions referred to as "added reparations benefits" (e.g., additional work loss and survivor's loss protection, additional funeral expense coverage, pain and suffering coverage, etc.), subject to approval of the insurance commissioner who may require that certain optional coverages and provisions be offered.

To assure that the necessary insurance coverages will be conveniently afforded to all persons at reasonable rates, the Act provides for an assigned risk plan or comparable facility under the supervision of the insurance commissioner.

Territorial Reach of the Act

The Act applies to any motor vehicle accident occurring within the State without regard to where any involved vehicle is registered or how long it has been in the State. It converts any motor vehicle liability insurance policy, including one issued elsewhere, into a basic reparation policy while the insured vehicle is operated in the State. Also, the benefits provided by a policy of basic reparation insurance are applicable to injuries or losses occurring outside of the State to the insured and members of his family and to any occupant of the insured vehicle.

Payment of Benefits

Ordinarily, benefits are payable as economic loss accrues, rather than in a lump sum. Commutation of benefits, other than medical and rehabilitation expenses, by lump sum or installment award may be ordered by a court if the value of future benefits is not more than $1,000 or if the court finds that it will contribute to the health or rehabilitation of the injured person or if it is otherwise in the best interest of the injured person and the parties consent. Claims for benefits may be settled by agreement, but only with judicial approval if the amount of the claimed loss exceeds $2,500.

Benefits must be paid within 30 days after accrued and claimed. Overdue benefits bear interest at 18 percent.

Except for very limited purposes, rights to future benefits are not assignable. Benefits for work loss, survivor's loss and replacement service loss are exempt from execution or garnishment to the extent provided by applicable state or federal law dealing with wage exemptions. Benefits for allowable expense are, with one limited exception, exempt.

The Act prescribes necessary discovery procedures. Specific provision is made for the adjudication of disputes over costs of rehabilitative procedures. Also, the refusal of the injured person of reasonable rehabilitative treatment is a ground for limitation of benefits.

The Act provides a special statute of limitations, applicable to claims for basic and added reparation benefits.

Attorney's Fees

Reasonable attorney's fees are accorded for successful representation in the collection of overdue or disputed benefits, the fee to be paid by the insurer unless the claim was in some respect fraudulent or unreasonable or excessive in which case part or all of the fee may be charged against benefits otherwise due the claimant. If the claim was fraudulent or so excessive as to have no reasonable foundation, the defending insurer may be awarded attorney's fees and offset them against benefits otherwise due.

Reallocation of Costs

The Act provides for reallocation of loss costs among insurers on the basis of the injury-causing potential of different kinds of vehicles according to rules formulated by the insurance commissioner or by agreement among insurers with the approval of the commissioner. If no other method is adopted, the Act requires the implementation of a reallocation system based on vehicle weight. Rates will then reflect the probability and magnitude of loss causation assuring, for example, that operators of heavy trucks will pay their fair share of accident costs.

Cancellation and Nonrenewal of Insurance

Except during an initial underwriting period, insurers are prohibited from cancelling or nonrenewing basic reparations and liability insurance contracts at less than annual intervals for any reason other than nonpayment of premium. At the request of the policyholder, the reason for any cancellation or nonrenewal of insurance at any time must be given.

HB 187

Appendix B

COMPARISON OF AUTO REPARATION LAWS
(Enacted to November 1, 1972)

STATE	Compulsion To Buy Insurance[a]				Approximate First Party Benefits			Tort Exemption For 1st Party Benefits Pd.		General Damage Limitation			Vehicular Property Damage	
	Compulsory		Mandatory	None	Medical	Wage	Total	Yes	None	Threshold	Formula	None	Exemption	Under Tort
CONNECTICUT Pub Act 2731 (1972)	L	(a) 1st					$5,000	(b) Partial		(b) $400				X
DELAWARE Code Ch 21 Tit 21 §2118	L	1st					$10,000		X			X		X
FLORIDA Laws Ch 71 252 (1971)	L	(a) 1st					$5,000	(c) Partial		(c) $1000			(d) Partial	(d) Partial
ILLINOIS Ins Code Art 35 (1971)†			(a) 1st	L	$2,000	$7,800	$9,800		X		(e) X			X
MARYLAND House Bill 444 (1972)	L	1st					$2,500		X			X		X
MASS Laws Chs 670 (1970) & 978 (1971)	L	1st					$2,000	(f) Partial		(g) $500			X	
MICHIGAN Sen. Bill No. 782 (1972)	L	1st			ALL	$36,000	(h)	X		(i) X			X	
MINNESOTA Stats 72A.1492-72A.1495				L. 1st	$2,000	$3,120	(j) $5,120		X			X		X
NEW JERSEY Assm. Bill 667 (1972)	L	(a) 1st			ALL.	$5,200	(k) $5,200	(l) Partial		(l) $200				X
OREGON Laws Ch 523 (1971)			(a) 1st	L.	$3,000	$6,000	$9,000		X			X		X
PUERTO RICO Act No 138 (1968)		1st		L	ALL	$5,800	(m)	X		(n) $1000				X
SOUTH DAKOTA Laws Ch 270 (1971)				L. 1st	$2,000	$3,120	(j) $5,120		X			X		X
VIRGINIA Laws Ch 859 (1972)				L. 1st	$2,000	$5,200	$7,200		X			X		X
Arkansas Act 138-1973	1st				3000	7,280	9280		X			X		X

HB-187

Appendix III

Summary of Report and Recommendations of the American Bar Association Special Committee on Automobile Insurance Legislation

Created in May 1971, the Special Committee on Automobile Insurance Legislation of the American Bar Association has reviewed existing and proposed legislation in the field of automobile insurance, both state and national. The Special Committee has also taken cognizance of and reviewed the 1971 report of the Department of Transportation on automobile accident reparations, the work done in 1971 and 1972 by the National Conference of Commissioners on Uniform State Laws in relation to the drafting of its *Uniform Motor Vehicle Accident Reparations Act*, and the 1969 report of the American Bar Association Special Committee on Automobile Accident Reparations (the "Powers' Report").

The Special Committee on Automobile Insurance Legislation submitted its report to the Annual Meeting of the American Bar Association at San Francisco, California, in August 1972. Excerpts from that report follow.

> We are unalterably opposed to legislation now pending in the United States Congress which would preempt state motor vehicle accident reparation reform by the establishment of a federal law governing the subject. We are similarly opposed to legislation developed by the Senate Commerce Committee which would coerce the States to meet or exceed certain motor vehicle insurance and reparation standards or face the imposition of a more stringent federal law. Rather, we are in accord with the view expressed by the Department of Transportation that state experimentation with diverse motor vehicle reparation plans offers the best solution to the development of meaningful reform in the public interest.
>
> The legislation which has been enacted in 10 States and Puerto Rico, in addition to studies under way and legislation being considered in other States, demonstrates that the States can and will act to meet the problems that are found to exist. We are unimpressed with arguments that legislation enacted to date is inadequate, or that the failure of certain States to enact "meaningful no-fault legislation" evidences disinterest with the problems facing their citizens. Those advancing these arguments support particular points of view or particular plans. Their dissatisfaction may be traced to the fact that the States have not adopted the type of plans which they are committed to support. We are convinced that a State Legislature is in a much better position to judge the problems which exist within its borders, and the best means to correct them.
>
> As lawyers we are subject to criticism if we caution against rapid change and seek evaluation and experimentation before a course of action becomes irreversible. We must face this criticism in the interest of the public unless we are convinced that change will promote the public welfare. On the other hand, where improvement and change are called for in the public interest, we support it fully. Some will say our recommendations have not gone far enough, others will say that we have gone too far. The Committee believes it has recommended change where needed and provided a vehicle which can unify the Bar in its support of meaningful but responsible reform.

Major Recommendations of the Special Committee

1. That States which have not done so adopt laws which provide for required motor vehicle bodily injury and property damage liability with coverage limits of $15,000 for bodily injury to one person, $30,000 for all bodily injury associated with one accident and $5,000 for all property damage from one accident, and that these laws be of a self-certification type.[1]

2. That the laws which provide for required motor vehicle liability coverage also provide for required uninsured motorist coverage with limits of $15,000 for bodily injury to one person and $30,000 for all bodily injury from one accident.[2]

3. That all States which have not done so adopt laws which require that minimum first-party coverage of at least $2,000 be included in all motor vehicle liability insurance policies offering protection for economic loss to the named insured, members of his family residing in the same household as the named insured, guest passengers in the insured's vehicle and pedestrians struck by that vehicle. Those laws should give the innocent accident victim the option to seek indemnity for economic loss from his own insurer, or in an action in tort, but should avoid duplicate reimbursement for the same loss and should shift the ultimate burden for the loss to the tortfeasor or his insurer.[3]

4. That in personal injury claims or actions arising out of motor vehicle accidents, general damages recoverable for pain, suffering, mental anguish, inconvenience and other similar loss should be limited to a multiple of one times the medical expenses unless they exceed $500 or unless the injury results in death, dismemberment, permanent total or permanent partial disability, temporary partial disability be-

1. Approved by the House of Delegates of the American Bar Association, August 15, 1972.

2. Approved by the House of Delegates of the American Bar Association, August 15, 1972.

3. Approved by the House of Delegates of the American Bar Association, August 15, 1972.

yond four weeks duration, serious disfigurement, or loss or impairment of a bodily function.[4]

Commentary by the Special Committee

With regard to its Recommendations 1 and 2, the Special Committee submitted a "Sample Statute" covering liability insurance and uninsured motorists insurance, modeled after legislation enacted by the State of Delaware. The Special Committee also offered background comments on these two recommendations, some of which are excerpted below.

> If the tort system is to operate effectively as a reparation mechanism for innocent accident victims, as opposed to being merely a mechanism to fix legal responsibility for injury or damage, tortfeasors who cause accidents must be financially responsible.
>
> Available information indicates that upwards to 90 percent of the motorists in compulsory insurance States comply with the laws. The remaining States operate under so-called "Financial Responsibility" laws which compel the purchase of insurance only after accident involvement or a serious traffic law violation. The percentage of insured motorists in those States is reported to vary from a high of over 80 to a low of near 55 percent. Based upon these realities, a person driving in a compulsory insurance State is faced with a probability of one in 10 that he will be involved in an accident with an uninsured driver. Whereas, in States not having compulsory insurance the probabilities are much higher.
>
> The widespread use of uninsured motorist coverage has taken some of the sting out of those probabilities. Certainly, even in compulsory insurance States, some motorists will attempt to avoid the law and drive without being insured. Uninsured motorists from other States will also cause accidents. However, if the choice of who is to pay for damages resulting from automobile accidents has to be made, as well it must, we conclude that it is preferable to assess the cost of accidents against those who are responsible for them through liability insurance premiums rather than to shift that cost to innocent accident victims through uninsured motorist coverage premiums.
>
> Critics of required insurance assert that claim frequency will rise under such a system. While this is a factor, probably no small part of the claims frequency increase will be due to the fact that more

4. This provision was rejected by the House of Delegates of the American Bar Association, August 15, 1972, and the following was substituted: "The American Bar Association is opposed to any federal 'no-fault' insurance legislation and believes that any changes which may be made in the so-called automobile accident reparations system should be by state action."

> persons will be insured and thus there will be more financially responsible persons against whom claims may be brought. Except for the question of limits, those persons who already insure their vehicles will be unaffected by the enactment of a required insurance law.
>
> We are recommending a compulsory law only in the sense that automobile insurance would be required for all motorists. However, the law is based on the principle of self-certification and does not require that a motorist file a certificate from his insurer for his vehicle to be registered. This type of "required" insurance should not prove to be as costly to enforce as the "compulsory" type in effect in New York, Massachusetts and North Carolina. It should not add substantially to the cost of motor vehicle law enforcement in a State and is modeled after the Delaware Act.

With regard to its Recommendation 3, the Special Committee submitted a "Sample Statute" covering required minimum first-party coverage in all motor vehicle liability insurance policies offering protection for economic loss. Excerpts from the Special Committee's commentary on this subject are shown below.

> A stage has been reached in the so-called "automobile accident reparation controversy" at which there appears to be little serious controversy over the question of whether all persons injured in auto accidents should have some form of first-party insurance. The controversy now centers on the questions which concern the amount of loss which should be recoverable under the first-party system and the extent to which tort liability should be abrogated, if at all, to finance the first-party system.
>
> Laws which have been enacted in Connecticut, Delaware, Florida, Illinois, Maryland, Massachusetts, New Jersey and Oregon all follow along lines similar to this Committee's proposal. Motorists in those States who buy liability insurance are required to purchase first-party coverage in specified amounts to protect themselves, their passengers and pedestrians. Our proposal would require the purchase of first-party coverage. It would not abrogate tort liability. This recommendation was approved unanimously, but two members of the Committee would have preferred that a reasonable tort exemption be provided. The tortfeasor, or his insurer, will have ultimate responsibility for the damages caused. The innocent accident victim is given an option. He may seek full compensation under the tort system, or he may recover a portion of his damages from his own insurer and the balance from the tortfeasor. In the latter case, the insurer paying first-party benefits will be able to seek reimbursement, to the extent of payment, from the tortfeasor or his insurer. The

sample statute which follows this discussion illustrates the type of minimum first-party coverage law favored by this Committee.[5]

It would not cover the total economic losses of all, but it must be remembered that the vast majority of Americans are protected by medical, hospital and wage loss benefit plans collateral to auto insurance. In addition, coverage for all economic loss under a first-party auto insurance system would require a severe limitation of the tort right of recovery for general damages so that the first-party benefits can be financed. The Sample Statute provides for coverage for the named insured and resident relatives in all auto accidents. Thus, they would be covered while they are guests in another's vehicle or while they are pedestrians. However, duplicate payment is to be avoided since it increases the cost of the system. The coverage provided is primary and payment thereunder is not dependent upon the injured person's collateral sources of compensation.

With regard to its Recommendation 4, the Special Committee submitted a "Sample Statute" covering regulation of awards for pain and suffering. This recommendation was not unanimous, and a minority report was filed "to record disagreement only with the Committee's fourth recommendation that general damages be limited to an equivalent of the medicals unless a monetary medical expense threshold or other condition is met." It should also be noted that the American Bar Association House of Delegates voted down this recommendation when acting on the report. Excerpts from the commentary in the majority report are shown below.

To completely deny recovery for general damages or to allow recovery to some persons and deny it to others based on some arbitrarily selected special damage threshold is inequitable. In fact, a reading of all of the 23 preliminary reports and the final report of the Department of Transportation fails to reveal any sound reason for elimination of this element of damages. The arguments for its elimination stress pragmatic reasons — it is too hard to evaluate these damages and their payment costs too much money.

The main problem cited by critics of the present system with relation to general damages centers around overpayment in the so-called "small case." The "nuisance settlement" has become a fact of life for those insurers who believe it is less expensive in the long run

5. It should be noted that the first-party insurance requirements in Connecticut, Florida, Illinois, New Jersey and Oregon apply only to "private passenger vehicles" as defined in those States' acts. In *Grace* v. *Howlett* (Ill. 1972) the Illinois Supreme Court held that limiting the mandated coverage requirement to one class of vehicles to the exclusion of other classes amounted to "special" legislation contrary to the provisions of that State's constitution. The Sample Statute is therefore drawn broadly to apply to all motor vehicles. Those wishing to restrict this broad requirement should consider *Grace* in light of the provisions of their own State's constitution.

to settle such cases for a little more than they are worth than to pay defense costs. One DOT report showed that claims payments for accident victims with special damages of $500 or less averaged about four and one-half times the specials, whereas, those with specials of between $5,000 and $10,000 were paid an average of one and one-tenth times their specials.

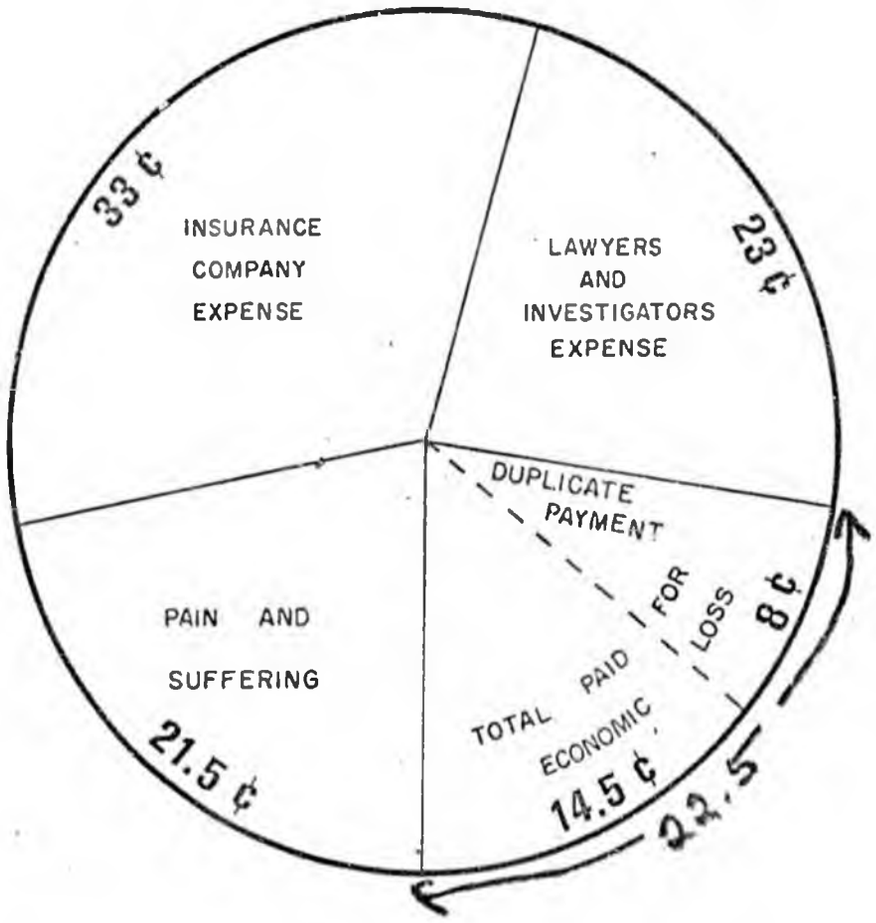
Our recommendation seeks to control, not eliminate compensation for general damages in the small case. When medical specials are $500 or less, the claimant would not be able to recover more than a sum equal to this medical treatment cost as general damages. Above that amount, the present system would be unchanged. In addition, even if the amount of expenses were below $500, the limitation would not apply if the injury resulted in death, dismemberment, permanent total or permanent partial disability, temporary partial disability beyond four weeks duration, serious disfigurement, or loss or impairment of a bodily function.

It has been estimated that close to 80 percent of auto accident victims sustain economic loss (excluding property damage) of $500 or less. This does not mean that all of those persons would be taken out of the tort system by our proposal. As to general damages all would remain under the tort system. However, for those whose medical specials do not exceed $500 or who do not meet the other "serious" injury exceptions, if fault can be established, their recovery for general damages would be limited.

There are those who will raise a constitutional question as to the propriety of limiting general damages. It should be noted that the limitation found in the Sample Statute differs from the type employed in Illinois which was found unconstitutional by a state trial court. First, the Sample Statute formula applies only to the so-called "small case" in which medical treatment expenses are $500 or less. The Illinois formula applied across the board to all cases except those involving death or very serious injury. Second, under the Illinois formula, as interpreted by the trial court, two accident victims with the same type of injuries could receive disproportionate amounts of general damages simply because one sought and was able to afford more expensive medical and hospital care. We believe that the Sample Statute we have prepared to illustrate our proposal with respect to limitation of general damages for the "small case" will not be subject to the same constitutional problems found by the Illinois trial court. That court did not find fault with the concept of a general damage limitation, but only with the unequal application of the limitation, under the Illinois law.

[NOTE: The full report of the Committee contained sample statutory language as well as additional commentary on many aspects of the Committee's recommendations.]

HB 187



DISTRIBUTION OF PREMIUM DOLLAR UNDER TODAY'S LIABILITY SYSTEM

SOURCE- ROBERT KEETON, "COMPENSATION SYSTEMS: THE SEARCH FOR A VIABLE ALTERNATIVE TO NEGLIGENCE LAW".

HB 187

February 20, 1973

The principal provisions of the new no fault plan which I envision for Alaska are:

1. A basic no fault hospital, medical, loss of income (including survivor's benefits) and loss of services package totaling $15,000. The only internal limits are 85 percent of actual income loss (to allow for income tax savings) up to $250 per week, $1,500 funeral and burial expenses but no time limits as such.

   The $15,000 package will reimburse 99.6 percent of all those injured, fully for their economic loss.

   In addition, the plan is designed to permit the offer of additional no fault benefits up to $50,000 on a voluntary basis.

2. The plan eliminates pain and suffering claims where death, disability, dismemberment or disfigurement has not occurred or medical expenses do not exceed $2,000.

3. Loss costs are transferred to the fault insurer anytime a claim for pain and suffering exists or when paid first party injury benefits exceed $3,000, or in any case where one vehicle involved in the crash exceeds 5,000 pounds unloaded weight.

4. First party benefits follow the car and not the person -- but if a person is injured in or by a car not owned by him and he is not promptly paid by the insurer of such car, he has the right to collect from his own insurer. These losses are then transferred to the insurer of the car.

5. Property damage is excluded. This leaves it to be handled by collision insurance (a no fault coverage) or by the property damage liability insurance -- same as the present system.

6. Automobile insurance is primary except for Workmen's Compensation Insurance and compulsory state disability insurance programs.

7. Benefits are payable as accrued, overdue if not paid within 30 days after reasonable proof with 10 percent penalty if overdue.

8. Bodily injury and property damage liability insurance must be provided at least equal to financial responsibility limits of the State of Alaska of 15/30/10.

"The threshold approach prevents overpayment of smaller claims, eliminates nuisance suits and reduces litigation. These savings are designed to balance the costs of additional first party benefits."

"In most instances, costs are transferred between insurers (without litigation) back to the fault insurer, thus permitting lower

rates for drivers who do not cause crashes and putting the higher cost on those who do.

"The plan permits recovery for vehicle damage from a person at fault even if the owner of the damaged car chose not to carry collision insurance and permits recovery of the deductible amount if he did carry collision insurance.

"This plan provides a whole new series of benefits based on no fault and eliminates most of the evils of the old fault liability system while preserving most of the aspects of that system. What is proposed is a marriage of the old with the new system producing an offspring with the best traits of both parents. With the dual foundation of both fault and no fault, growth and experience will produce the wisdom to move forward to broader benefits and more no fault coverage or backward to greater reliance upon fault if experience so requires.

By Daniel Hickey, Assistant Attorney General for the State of Alaska

T stimony Before House Commerce Committee

HB-187

February 17, 1973

House Bill 187, introduced by the Rules Committee by request of the Governor, represents the best efforts of various departments and agencies of the State over a period of two years to create an efficient and equitable system of compensation for injury arising out of automobile accidents. To this end, it constitutes a refinement of the better elements contained within a number of proposals that received attention in prior sessions of the Legislature, most particularly Committee Substitute for House Bill 464 which was passed in the House during the last session.

The Administration is persuaded that there is a clear and present need for reform in the present system of compensation. Experience has shown that the present liability system has all too often been inefficient, inequitable, wasteful and a significant contributing factor in congested court dockets. Liability insurance, as it is presently conceived and administered, guarantees only that an injured party in a motor vehicle accident has a possibility of some compensation. Even when there is compensation, however, nothing can be guaranteed as to its adequacy.

The following major categories of criticism of the present system of compensation have been identified by the Institute for the Future in a report entitled "The Automobile Insurance System: Current Status and Some Proposed Revisions":

* There is excessive delay in payment of claims.

* Many victims are not compensated.

* Claim settlements are inequitable with respect to economic loss.

* Net benefits paid to claimants (per premium $) are low in comparison with other reparation systems.

* The present automobile insurance system contributes significantly to court congestion.

* Adequate insurance is not available for many.

* Fault is difficult to determine.

* Insurance costs are excessive.

* It encourages exaggeration of claims.

* It encourages fraud.

* The insured is highly uncertain as to the amount of benefits to be received and the delay time involved.

* The rate classification system is unfair.

* It is difficult to project claims.

We concur in these conclusions and observations.

House Bill 187 addresses itself to these criticisms and provides a basis for enacting and administering a comprehensive system of compensation for victims of automobile accidents. To a large extent, economic loss which accrues as the result of a motor vehicle accident will be compensated without regard to fault through first-party insurance coverage. Tort liability for such loss is abolished. House Bill 187 does not exclude the possibility of tort recovery entirely. On the contrary, it attempts to limit that possibility to those parties with a legitimate interest in recovery beyond the system of basic first-party benefits.

The insurance system established in the bill is a compulsory system. Every owner of a motor vehicle registered in this State or permissively operated in this State, including the State, its public agencies and political subdivisions, will be required to maintain security for the payment of basic loss, or no fault, benefits and tort liabilities. The minimum required security for tort liability is $15,000 per person per accident with a $30,000 total aggregate limit per accident and $10,000 per accident for property damage.

Basic loss benefits are payable without regard to fault for net economic loss suffered through injury arising out of the maintenance or use of a motor vehicle, subject to certain limits, deductibles, exclusions, disqualifications and other conditions provided for in the bill. Essentially, basic loss benefits will compensate for:

1) allowable medical expenses up to $50,000;
2) work loss, replacement services loss, survivor's economic loss and survivor's replacement services loss up to an aggregate total of $36,000 at a maximum rate of $250 per calendar week; and
3) funeral, cremation and burial expenses up to $1,500.

Basic loss insurers will also be required to offer, with appropriate premium reductions, certain specified optional deductions and exclusions from basic loss benefits, among which is a deductible of $1,000 per accident from all basic loss

benefits otherwise payable for injury to a person which occurs while he is operating or is a passenger on a two-wheeled motor vehicle.

Insurers may also make available a range of optional coverages for added loss benefits and for harm to vehicles and their contents.

Damage to motor vehicles or their contents arising out of motor vehicle accidents will no longer be compensable through the fault system. However, basic loss insurers are required under the bill to offer a number of alternative forms of first-party collision coverage, both in full and subject to a deductible of $100.

The modification of tort law present in this bill is in the form of an exemption from certain types of tort liability. Liability remains, for example, for noneconomic detriment in excess of $5,000 where the injury is of a specified type; for allowable medical expenses in excess of that compensated for through basic loss benefits; and for work loss, replacement services loss, survivor's economic loss and survivor's replacement services loss which are not recoverable through basic loss benefits after the injured person has been disabled for more than six months or after his death. Automobile manufacturers, repair shops, parking garages and railroads all remain potentially liable in tort when they are involved in motor vehicle accidents.

There are various provisions in the bill designed to achieve maximum compliance with the requirement that security be provided through insurance or self-insurance.

Provision is also made for the administrative regulation of the terms and conditions of insurance policies.

Uninsured claims are provided for through an assigned claims plan. All insurers and self-insurers in the State would be required to participate in the plan and pay claims assigned to them on an equitable basis.

The bill applies to any motor vehicle accident occurring within this State without regard to where any involved vehicle is registered. Any motor vehicle liability insurance policy, including one issued elsewhere, is converted by law into a basic loss insurance policy while the insured vehicle is in this State. Benefits provided through basic loss insurance are applicable to injuries occurring outside the State to an insured and members of his family and to any occupant of an insured vehicle.

With respect to collateral benefits, basic loss insurance is primary as to all other benefits with the exception of social security and workmen's compensation. Subject to the approval of the director of insurance, however, basic loss insurers may offer an optional exclusion of any additional benefits.

The bill also provides for reallocation of loss incurred among insurers on the basis of the injury-causing potential of different kinds of vehicles.

Other provisions relate to an insurer's rights of reimbursement and subrogation, prompt payment of benefits, availability of insurance through an assigned risk plan, and terminations, cancellations or nonrenewals of insurance.

HB 187

Gentleman:

I am William Baker, Director for the Alaska Association of Independent Insurance Agents, Inc., and my testimony is on behalf of that organization.

The AAIIA has studied the No-Fault Automobile Insurance question for over three years and we have gone on record many times before various legislative hearings such as this one. Our most recent testimony was on January 5, 1973, in Ketchikan and the statement was made by our State National Director, Carl H. Porter. In that report Carl Pointed out that "we have adjusted our position somewhat to accommodate what we see as minimum ACCEPTABLE criteria. His statement continued,"I will not recigte all the factors and facets that led to our present position, but I will tell you that we moved from a position of total opposition to No-Fault (because of the "pure" No-Fault plans of the American Insurance Association and the New York Insurance Commissioner), to a firm considered position IN FAVOR OF A MODIFIED NO-FAULT PLAN FOR ALASKA. This plan should pay substantial benefits for medical expenses, wage loss and loss of services on a mandatory, no-fault basis: AND THESE AMOUNTS SHOULD REPLACE COURT ACTION (in cases where court action is taken for greater amounts or for specific exclusions, such as dismemberment or disfigurement, these no-fault recoveries would be subtracted from the judgement)."

Since the January 5th report, the Board of State National Directors of the National Association of Insurance Agents has acted affirmatively upon guide lines suggested by the National No-Fault Committee. These guide lines are compatable with the position of the Alaska Agents Association and we therefore set them forth now as recommended guide lines for consideration by the Alaska Legislature.

1. The National Association recognizes that if effective First Party/No-Fault Auto Accident Reparations legislation is not passed at the State level, some form of Federal Legislation, Federal Guidelines and/or Federal Control of the automobile insurance system will result.

2. The NAIA is convinced that in order for the automobile insurance system to be most responsive to the public needs, it must be regulated at the state level, should remain under state jurisdiction only and be subject to state legislation exclusively.

3. The NAIA commends those companies who are in accord on The Basis of an All-Industry Agreement on a State No-Fault Insurance Program in pursuit of the broad, general principle set forth in #2 above.

4. The NAIA recommends to its member state associations that they support the Program in their individual states during the 1973 legislative sessions, insofar as it does not conflict with their presnet commitments.

The particulars of the proposal are as follows:

a. Automobile insurance will be primary as against collateral sources except as to statutory benefit systems in existence.

(1) An effort will be made to get future statutory benefit systems to exclude or "carve out" auto accidents up to the basic limits.

(2) Oppose all deductibles from the basic program and accept deductibles only as necessary.

(3) In particular, oppose as unacceptable Section 14.b.2 (the Section which makes collateral lines primary) of the Uniform Motor Vehicle Accident Reparations Act (UMVARA).

b. First-party benefits:

(1) Propose initially a $5,000. limit for combined medical expense and wage loss, including any rehabilitation program.

(2) Be prepared to go up to higher combined limits as necessary. Oppose unlimited benefits. Suggested range of $5,000. to $25,000.

(3) No deductibles or waiting periods.

(4) Internal limits of semi-private room for medical expense and 85% of wage loss if income replacement benefits are not subject to federal income taxes.

c. Tort limitation (no-fault) feature):

(1) Tort actions for general damages (pain and suffering) should be retained for all described serious injuries or wherever medical expenses exceed $1,000.

(2) The dollar limit on medical expenses is preferable to a statutory description seems advisable, an effort will be made to convert $1,000. of medical expense into a given number of days of disability.

(3) The legislative effort is to begin at the $1,000. medical limit or its equivalent. It was necessary for the purpose of having an agreement between the companies that there be a sincere commitment to, and a pledge of

strenuous effort for, the $1,000. medical threshold or its equivalent.

(4) Anticipating that there would be pressures for a lower medical threshold, it was the understanding that it might be advisable under certain conditions to go to a lower medical threshold if it was necessary to get a bill passed.

d. Insurance for no-fault benefits, and for bodily injury and property damage liability will be compulsory.

(1) The compulsory bill will provide for an assigned claim plan.

(2) A self-certification plan as to coverage will be used if possible with criminal sanctions supporting it. An effort will be made to avoid highly restrictive certification programs.

e. Both private passenger and commercial vehicles shall be included in the bill.

f. Property damage will not be included in the no-fault system. Physical damage coverages will be optional as now.

g. Subrogation will be eliminated where there is no tort claim under the provisions of the bill. There will be subrogation where there is a tort claim under the provisions of the bill (for example: 1. where the threshold has been exceeded, 2. where there is a claim for benefits in excess of first-party coverages, and 3. where there is a claim for property damage).

This concludes my testimony on behalf of the Alaska Association of Independent Insurance Agents, Inc.. We sincerely hope that our efforts and testimony to this date have assisted the Alaska State Legislature in its search for a meaningful Modified No-Fault solution.

SB 219

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU 99801

March 28, 1974

The Honorable Clem V. Tillion
Chairman
House Judiciary Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Tillion:

It has recently come to our attention that Senate Bill No. 219, "An Act relating to the execution exemption for income; and providing for an effective date," will be coming up for consideration by your committee.

This bill deals with an important area of consumer protection, that of creditors' remedies. The Department believes that to the extent the bill brings the state law into closer conformity with the present federal law regarding wage garnishment, Title III of the Consumer Credit Protection Act, 15 U.S.C. §§1671-1677, it is a desirable piece of clean-up legislation.

The state and federal statutes presently conflict in their provisions, and such conflict creates confusion among creditors and consumers alike as to which law can and should be used.

It is clear that the federal statute is the controlling law in this area. The provisions of S.B. 219 providing for basic conformity with that law would eliminate the existing confusion regarding this subject.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By James E. Douglas
James E. Douglas
Assistant Attorney General

JED:jdg

HB-372

WAKELAND AND NORENE, INC.
REAL ESTATE APPRAISERS AND COUNSELING

WILLIAM WAKELAND, MAI, SREA
LARRY NORENE
ROGER N. BONNETT, MAI

507 W. NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503
(907) 279-0733

April 8, 1974

The Honorable Clem Tillion
House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Clem:

It is my understanding that your Judiciary Committee may now have before it the committee substitute for H. B. 372. This is the proposed bill to license real estate appraisers. In the event the bill is still in Commerce Committee, or is being considered in the Senate, would you kindly pass this letter along to the appropriate committee chairman?

As you may be aware, the Alaska Chapter of the Society of Real Estate Appraisers has approved of a bill to replace one put into the hopper last year. I served on that committee. The bill was subsequently sent to Juneau, introduced in the House, and Mr. Errol Simmons testified before the Commerce Committee, I believe, and the bill was amended further by that committee.

My purpose in writing is to express the will of the Alaska Sub-Chapter of the Washington-British Columbia Chapter No. 8 of the American Institute of Real Estate Appraisers, an affiliation of the National Association of Real Estate Boards. The Institute offers a professional designation "M.A.I.", that most of you are familiar with, and which is the most widely known and respected of the several professional designations offered by various organizations. Perhaps what most sets the Institute apart from The Society of Real Estate Appraisers - regarding this proposed licensing bill - is the requirement that in the Institute only designated members can vote on Chapter or national affairs. Alaska presently has only five M.A.I.'s and two R.M.'s, the latter being a residential designation. There are about twelve candidates, and a number of applicants.

On April 5, 1974, the Alaska Sub-Chapter of the Institute met and discusse the licensing issue and the bill now before the legislature. Both the vote of those present, and the vote of the designated members (all seven were present) was to request that the legislature <u>do not pass</u> the bill before it, but rather give our organization - only recently organized within Alaska - a chance to study licensing as a concept and to draft changes to the bill propcsed. The

principal objections to the present bill discussed at this meeting were:

1. Licensing will not accomplish anything beneficial to the public, nor to any appraiser but those least qualified and most inexperienced.

2. The Grandfather Rights Clause should be eliminated.

3. The standards of conduct, education, training and ability worked out over some forty years experience by one of the two principal professional appraisal organizations mentioned above - preferably the Institute - should furnish the basis for licensing requirements.

Incidentally, both of the appraisal organizations mentioned above, as a national policy, oppose licensing, but have advanced a model licensing bill to recommend should licensing become inevitable in any state. The bill before the legislature incorporates most of the provisions in the model bill, which is essentially a weak bill.

Thank you for your consideration and kindest personal regards.

Respectfully submitted,

Wm Wakeland

William Wakeland
President
Alaska Sub-Chapter No. 8
American Institute of Real
Estate Appraisers

cc/Audie Moore

WW/bb

KENAI PENINSULA BAR ASSOCIATION
P. O. BOX 397
KENAI, ALASKA 99611
TELEPHONE 283-7564

HB-411

8 February 1974

Representative Clem Tillion
Chairman, Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska

Re: House Bill 411 -- establishing a Fifth Judicial District

Dear Chairman Tillion:

It is my understanding that the House of Representatives is considering Legislation proposing the establishment of a Fifth Judicial District which would generally include the Kuskokwim-Yukon Valley to Barrow including all of the Seward Peninsula and Bristol Bay.

This Association is sensitive to the need for judicial services for all of Alaska's people. It is our observation that designation of a judicial district implements the philosophy of bringing judicial services to the people where they live. This makes the system serve the people more closely rather than the reverse situation.

From my general experience, I would urge the passage of House Bill 411 in its present form, or as it might be changed to best meet the needs and desires of those anxious to secure passage of this legislation.

Yours truly,

James E. Fisher

JAMES E. FISHER
President

cc: Representative Phillip Guy
cc: Kenai Peninsula Legislative Delegation:
Representative Hugh Malone
Representative Keith W. Specking
Senator Jalmar M. Kerttula
Senator W.I. "Bob" Palmer

IN THE ALASKA STATE LEGISLATURE

HB 411

PRIME SPONSOR:

Phillip Guy — District 17

CO-SPONSORS:

Richard L. Mcveigh 10
Willard L. Bowman 10
Edward G. Barber 7
Helen Beirne 10
Mike Bradner 17
Genie Chance 7
Chuck Degnan 20
Milo H. Fritz 9
Terry Gardiner 1
W. Glenn Hackney 17
John Hubner 17
Jacob Laktonen Jr. 13
Joseph E. McGill 14
J. Hugh Malone 11
Russ Meekins 7
Jo Ann Miller 7
Mike Miller 4
Edward F. Naughton 12
William K. Parker 7
Lawrence D. Peterson 16
A. M. Saylors 8
Kieth Speckling 5
I. Lavell Wilson 18

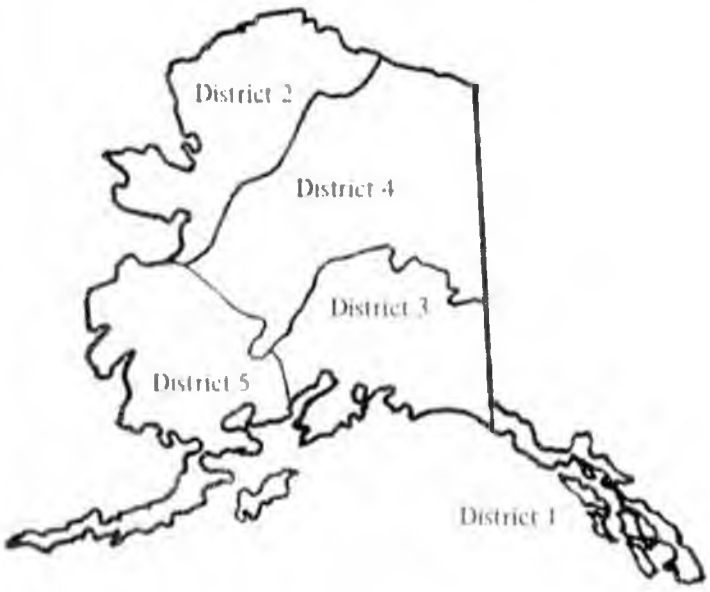
• • • • • ESTABLISHING • • • • •

THE FIFTH JUDICIAL DISTRICT
FOR THE STATE OF ALASKA

The prime sponsor expresses appreciation for support of HB 411.

The Bethel and Kuskokwim area needs to become the State of Alaska's Fifth Judicial District. This Fifth Judicial District would include election districts 14, 15, 16, and 17, creating a boundry unifying more agencies and services of the government. This area contains the greatest concentration of Native population in the State of Alaska, with approximately 13,500 Native Alaskans and 3,000 white residents living in more than 50 villages surrounding Bethel.

Map showing Alaska's new judicial district.



Presently, the Kuskokwim area is served by a Superior Court Judge stationed in Anchorage, who "circuit rides" to Bethel once a month. This judge is elected from a district which includes Fairbanks, physically located 500 miles away, representative of a completely different way of life. We need justice administered by a resident whose family lives among us and is responsive to the local needs of the people. We need a more equal distribution of public protection, and administration of justice to end the breakdown of services and facilities to the rural areas, that have resulted in the term "bush justice". In the first eight months of 1973, 594 state criminal cases alone were filed in Bethel, and this only begins the list of services administered by the court. Presently, the only legal representative of eligible low-income people is Alaska Legal Services, which handles only civil cases, not criminal cases.

The establishment of a Fifth Judicial District will also promote the development of additional court system personnel in the recording and administrative section, plus promote establishment of related services which are badly needed in this area. With the passage and implementation of the Alaska Native Claims Settlement Act, and continued development of the village and municipal corporations, litigation will sharply increase. Under the Act, the Bethel area has 13,500 new property owners and corporate stock holders.

TESTIMONY ON HB 411

AN ACT ESTABLISHING

THE FIFTH JUDICIAL DISTRICT

OF THE

SUPERIOR COURT

BY

PHILLIP GUY

2nd Vice-
PRESIDENT
A.V.C.P., INC.
KUSKOKWIM - YUKON

AKIACHAK
AKIAK
ALAKANUK
ANDREAFSKY
ANIAK
ATMAUTLUAK
BETHEL
CHEFORNAK
CHEVAK
CROOKED CREEK
EEK
EMMONAK
GEORGETOWN (K)
GOODNEWS BAY
HAMILTON
HOLITNA
HOOPER BAY
KASIGLOOK
KIPNUK
KONGIGANAK
KOYLIK
KWETHLUK
KWIGILLINGOK
LIME VILLAGE
LOWER KALSKAG
FORTUNA LEDGE
(MARSHALL)
MEKORYUK
MOUNTAIN VILLAGE
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPITCHUK
OHOGAMIUT
OSCARVILLE
PILOT STATION
PITKAS POINT
PLATINUM
RUSSIAN MISSION (K)
RUSSIAN MISSION (Y)
RED DEVIL
SCAMMON BAY
SHELDON'S POINT
SLEETMUTE
ST. MARY'S
STONY RIVER
TOKSOOK BAY
TULUKSAK
TULUTULIAK
TUNUNAK
UPPER KALSKAG

REPRESENTATIVE PHILLIP GUY

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99801

COMMITTEES:
LOCAL GOVERNMENT
RESOURCES

DISTRICT 15
AKIACHAK
AKIAK
ATMAUTLUAK
BETHEL
CHEFORNAK
EEK
KIPNUK
KONGIGANAK
KWETHLUK
KWILLINGOK
MEKORYUK
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
OSCARVILLE
TOKSOOK BAY
TULUKSAK
TULUTULIAK
TUNUNAK
CAPE ROMANZOF
HOOPER BAY

HB 411

The aim of HB 411 is to bring justice closer to home, to stop transporting defendants and stop the confusion of record keeping between the Bethel area, Nome, Fairbanks, and Anchorage. The Yukon Kuskokwim does not want to remain a service district to Anchorage, but wants to create and maintain its own unified court system. With all of Alaska's history and tradition, the state, being equal in size to many other states combined, any wonder, in the process of development, new districts with greater powers of self-determination emerge. The effort by the Alaska Court System to alleviate the Yukon Kuskokwim judicial problems by making Bethel a service district to the Third Judicial District, centered in Anchorage, must be considered a temporary move toward establishing Bethel's own unified court system within its own district.

The area south of St. Michaels, which is presently located in the Second Judicial District, already looks to Bethel for judicial services, rather than Nome, because of geographic proximity. From a cultural and linguistic standpoint, these villages are part of Bethel, rather than related to Nome and the land of the Inupiak. Why retain Yukon Kuskokwim as an administrative exten-

sion of Fairbanks, or Anchorage when the de-facto recognition makes Bethel the center. The Fifth Judicial District will formalize a system that is already accepted.

The importance of confirmation election of a judge must not be underestimated. An elected judge must consider local cultural needs, as the local people, through an election, approve or disapprove the appointment of this judicial officer. This process stops law from becoming "de-humanized." Presently, a judge in Bethel is confirmed by local officials included in the Fairbanks election district. Judges do not campaign to be elected. A judicial council consisting of three lay members, three attorneys, and one judge, that represents the court system, receives applications, and recommends nomination of two or more applicants to the Governor. The sole function of this council is to evaluate applications. From the nominated applicants, the Governor appoints a judge. This appointment lasts for three years. The appointed judge then faces a confirmation election. The public does not choose a judge in a contested election, but the public does have the opportunity to confirm or reject the appointment.

Studies have been and are being made on the problems of "bush justice." These studies aimed towards dispute and conflict resolution should have been made ten years ago. We are moving forward, not backward. With the passage of Alaska Native Land Claims Settlement Act, changes are occuring too fast to set up arbitration boards to interpret law, case by case, between the traditional village councils and the system of the court. The Native villages must

accept the western concept by virtue and nature of the Alaska Native Land Claims Settlement Act; the land recording activity will be a major process of the court. Land becoming a commodity, a viable marketable item, will create a need for dispute resolution of traditional rights versus those granted by the Alaska Native Land Claims Settlement Act, into the realm of Anglo-Saxon law. Developing economic and commercial activity will require instrument recording for secured loans, conditional sales contracts, chattel mortgages, and corporate charters recorded as businesses are established. Individual lease activity, oil, and industry-related mineral leases will greatly increase court and legal activity in the Fifth Judicial District. These records must be available for use to the people concerned.

The Federal State Land Use Planning Commission, in its projections, predicts a four-fold increase in land record filing alone.

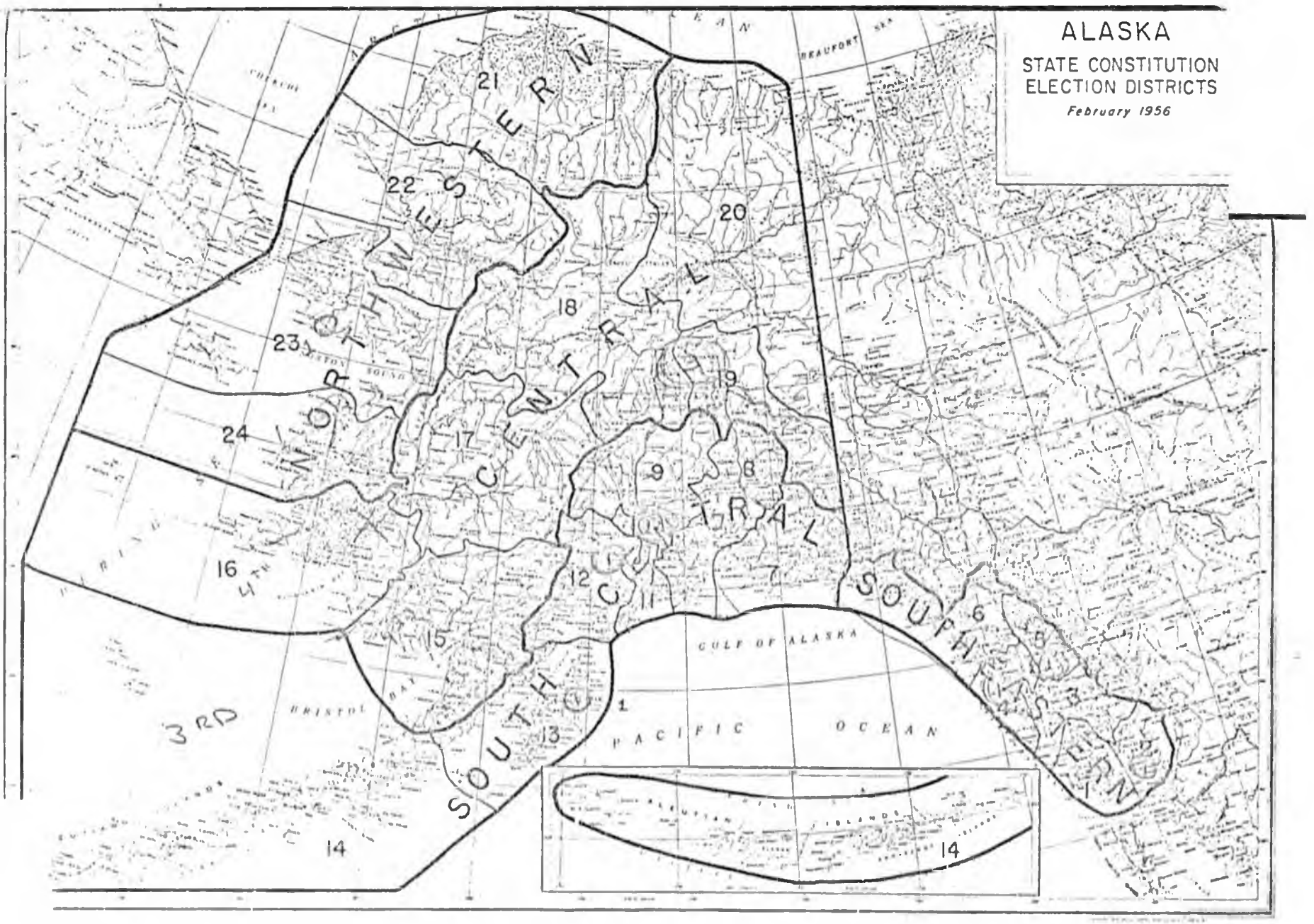
The enrollment has formalized family relationships, which means inheritance estates, birth, death, and adoption will become court-related activity of the district. No more will a son, father or grandson be able to assume property ownership of a deceased relative or friend. This will all become legal activity within the decedent's estate. For judicial purposes in managing economic and social affairs, establishing a Fifth Judicial District will enable the 50 villages in the Bethel area to better serve and respond to the needs and purposes of its inhabitants.

The district also needs the development of just and enforceable municipal ordinances which are compatible and understood throughout the region, which will continue to promote unification, on the road to self-determination. Functioning on an established judicial district, a comprehensive

program can be developed for criminal and civil justice. Law enforcement for the region and villages in developing procedures and facilities to qualify and secure funds from the U.S. Department of Justice, is imperative to the development of the region. Detoxification centers, community based counsiling, and probation services, medical evacuation facilities, a search and rescue group, are only a few related activities of a new judicial district. Organizing a regional police force is imperative to replace the scattered, isolated, and presently non-existant police force. This can become a reality in planning for law enforcement activity. Presently, law enforcement in many villages, is on a voluntary basis. Consideration can be made to re-define the role of the Alaskan State Troopers within the region to begin development of district enforcement capability. Federal and State funds can be sought to train Native people to become more capable agents and administrators of law enforcement and related services. A future borough status should be considered for development of regional land-use plans to establish zoning strategies in determining and representing land related issues.

The Fifth Judicial District would help create area-wide power, instrumental in receiving a better break in the Federal Revenue Sharing Program. The Yukon Kuskokwim areas absolutely need to become the State of Alaska's Fifth Judicial District.

AB-411

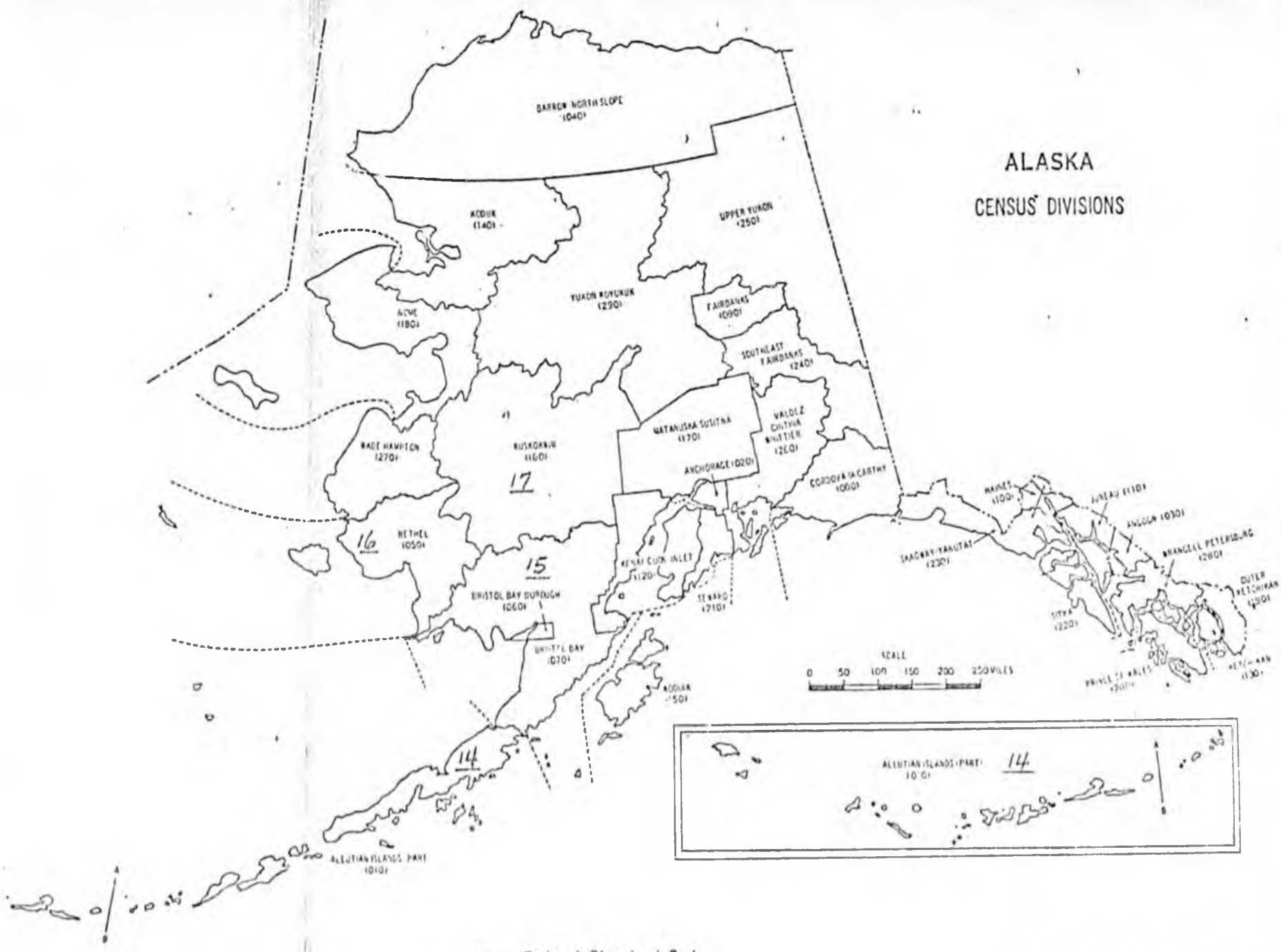

ALASKA
STATE CONSTITUTION
ELECTION DISTRICTS
February 1956
BEAUFORT SEA
21
22
20
18
23
19
24
17
9
8
16
12
11
6
15
1
13
14
14
NORTHERN
SOUTHWESTERN
NORTH CENTRAL
CENTRAL
SOUTHEAST
SOUTH
3RD
GULF OF ALASKA
PACIFIC OCEAN
BRISTOL BAY

HB 411

ESTIMATES OF TOTAL RESIDENT POPULATION OF ALASKA BY CENSUS DIVISION AS OF JULY 1, 1973 AND COMPONENTS OF POPULATION CHANGE SINCE APRIL 1, 1970

Census Division	April, 1970 (Census)	July 1 1973	NET CHANGE 1970 to 1973 Number	Percent	COMPONENTS OF CHANGE Births	Deaths	Net Natural Increase	Net Total Migration
Aleutian Islands	8,057	6,914	-1,143	-14.2	408	63	345	-1,488
Anchorage	126,333	149,440	23,107	18.3	10,288	1,561	8,727	14,380
Angoon	503	402	-101	-20.0	28	18	10	-111
Barrow	2,663	2,583	-80	-3.0	215	54	161	-241
Bethel	7,767	7,906	139	1.8	717	137	580	-441
Bristol Bay Borough	1,147	1,199	52	4.5	42	18	24	28
Bristol Bay	3,485	3,659	174	5.0	252	77	175	-1
Cordova-McCarthy	1,857	1,982	125	6.7	108	71	37	88
Fairbanks	45,864	45,571	-293	-0.6	4,017	557	3,460	-3,753
Haines	1,504	1,902	398	26.5	98	50	48	350
Juneau	13,556	16,593	3,037	22.4	815	279	536	2,501
Kenai-Cook Inlet	14,250	13,808	-442	-3.1	904	182	722	-1,164
Ketchikan	10,041	10,587	546	5.4	730	261	469	77
Kobuk	4,434	4,352	-82	-1.8	372	92	280	-362
Kodiak	9,409	8,868	-541	-5.7	806	153	653	-1,194
Kuskokwim	2,306	2,484	178	7.7	126	50	76	102
Matanuska-Susitna	6,509	8,586	2,077	31.9	422	135	287	1,790
Nome	5,749	5,682	-67	-1.2	463	161	302	-369
Outer Ketchikan	1,676	1,641	-35	-2.1	119	48	71	-106
Prince of Wales	2,106	1,992	-114	-5.4	98	43	55	-169
Seward	2,336	2,446	110	4.7	147	75	72	38
Sitka	6,109	6,010	-99	-1.6	360	119	241	-340
Skagway-Yakutat	2,157	2,205	48	2.2	143	53	90	-42
Southeast Fairbanks	4,179	4,285	106	2.5	367	49	318	-212
Upper Yukon	1,684	1,655	-29	-1.7	91	38	53	-82
Valdez-Chitina-Whittier	3,098	3,568	470	15.2	204	49	155	315
Wade Hampton	3,917	3,878	-39	-1.0	349	62	287	-326
Wrangell-Petersburg	4,913	5,085	172	3.5	370	164	206	-34
Yukon-Koyukuk	4,752	5,082	330	6.9	275	91	184	146
TOTAL	302,361	330,365	28,004	9.3	23,334	4,710	18,624	9,380

HB 411



(1090) Federal Standard Code

FAIRBANKS 1973 Census Division

U.S. DEPARTMENT OF COMMERCE
SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION
BUREAU OF THE CENSUS

Eddie Hoffman, Sr.
Bethel, Alaska 99621

February 6, 1974

President
A. VC.P., INC.
Kuskokwim - Yukon

HB-411

Akiachak
Akiak
Alakanuk
Andreafsky
Aniak
Atmauluak
Bethel
Chefornak
Chevak
Crooked Creek
Eek
Emmonak
Georgetown (K)
Goodnews Bay
Hamilton
Holitna
Hooper Bay
Kasiglook
Kipnuk
Kongiganak
Kotlik
Kwethluk
Kwigillingok
Lime Village
Lower Kalskag
Fortuna Ledge
(Marshall)
Mekoryuk
Mountain Village
Napakiak
Napaimute
Napaiskiak
Newtok
Nightmute
Nunapitchuk
Ohogamiut
Oscarville
Pilot Station
Pitkas Point
Platinum
Russion Mission (K)
Russian Mission (Y)
Red Devil
Scammon Bay
Sheldon's Point
Sleetmute
St. Mary's
Stony River
Toksook Bay
Tuluksak
Tultutuliak
Tununak
Upper Kalskag

Representative Tom Fink
Speaker
State House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Representative Fink:

I have been informed that House Bill 411, a bill relating to the establishing of the fifth district of the Superior Court is going to be under discussion on February 15, 1974, there in Juneau.

The need for a fifth judicial district is increasing faster and faster witn all the rising crimes in the State due to population increases, unemployment, alcohol and drugs, and it is not going to be confined only to the above - the need is going to be in the further implementation of the Alaska Native Claims Settlement Act where real estate transactions are going to become more common. I cannot over emphasize the most urgent nature of this need. The concept of the "great grandfather in Washington, D.C. or Juneau, or Anchorage, or Fairbanks" has failed us much too much already in an era when we are accepting and adopting the white man's concept of government without truly understanding it.

I respectfully call upon your participation to influence to make House Bill 411 a reality this session. HB 411 will bring the white man's concept of government closer to our home for our better understanding and participation.

I thank you in advance for your help.

Sincerely,

Edward Hoffman Sr

Eddie Hoffman, Sr.

HB-427

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

April 12, 1973

Representative Keith Specking
Hope
Alaska 99605

Dear Keith:

In preparing the session laws for publication in the Alaska Statutes, I find that your guide-licensing Act, ch. 17, SLA 1973 (copy enclosed), raises some questions which should be taken care of by legislative action next session.

(1) Joel tells me that it was the intent in the final versions of the bill (HB 1) to have the occupational licensing division of the Department of Commerce handle administrative matters for the Guide Licensing and Control Board, under AS 08.01 (the chapter on centralized licensing). However, the bill (and now, Act) makes no provision for this, and in the absence of this board from the list in AS 08.01.010 the Department of Commerce has no authority and no obligation with regard to this board. If that was in fact the intent, the following amendment should be offered:

> "AS 08.01.010 is amended by adding a new paragraph to read:
>
> (20) ~~(20)~~ Guide Licensing and Control Board."

(2) In AS 08.54.210(b) ("Unlawful Acts"), in this Act, there are three inaccurate citations of "sec. 200(e) of this chapter". As you know, your bill this session (HB 1) was based on last legislature's FCCS SCS CSHB 185. The language containing the erroneous citations was added as a Senate floor amendment to SCS CSHB 185 (see 1972 Senate Journal, pages 741 -- 742, 4/24/72), in which version of the bill sec. 200(e) was a provision quite different from the final version. The free conference committee on that 185 changed sec. 200(e) but did not the citations in sec. 210(b). That error was then perpetuated in your bill this year. (I don't think those citations were altogether accurate at the time that amendment

was adopted either, but when the FCC made its change in sec. 200(e) the citations became completely inaccurate. [In SCS CSHB 185, that subsec. (e) read: "No person who is disciplined under this section may engage in outfitting or guiding activity during the period of disciplinary action."])

Therefore I am requesting the publisher to put the following note under AS 08.43.210:

"Revisor's note (1973). AS 08.54 was enacted by ch. 17 SLA 1973, which was derived from the Eighth Alaska State Legislature's CSHB 1 am S which in turn was based on a portion of the Seventh Legislature's FCCS SCS CSHB 185. AS 08.54.210(b)'s inaccurate references to sec. 200(e) can be traced back to a 1972 Senate amendment to the Seventh Legislature's SCS CSHB 185, in which bill sec. 200(e) was a different provision. In FCCS SCS CSHB 185, sec. 200(e) was changed but these references to it were not."

AS 08.54.210(b) should be amended next year and then this revisor's note deleted. Taking something of a wild guess, I believe the following amendment would be appropriate (but be sure to let Joel or me know if you would prefer some other amendment):

"AS 08.54.210(b) is amended to read:

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or by both, and may have his license revoked for a period up to five years. However, a person who engages in [OUTFITTING OR] guiding activity during the period his license is suspended or revoked under [OF DISCIPLINARY ACTION UNDER SEC. 200(e) OF] this chapter is guilty of a felony punishable, upon conviction, by a fine of not more than $5,000 or [AND] by imprisonment for not less than one year nor more than three years, or by both fine and imprisonment. In addition to punishment for a felony [UNDER SEC. 200(e) OF THIS CHAPTER], all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear and other equipment and paraphernalia used in, or in aid of, guiding activity engaged in during the period of suspension or revocation [A VIOLATION OF SEC. 200(e) OF THIS CHAPTER] shall be confiscated by persons authorized to enforce this chapter."

I am not sure exactly what that Senate amendment (adding the second sentence of what is now AS 08.54.210(b)) intended. Since the first sentence of sec. 210(b) makes violation of "this section" a misdemeanor, and sec. 210(a)(3) lists guiding without a guide

license as an unlawful act, it would appear that the only conduct to be regarded as felonious under this chapter (AS 08.54) is guiding during the period of suspension or revocation, and the amendment proposed here makes that interpretation clear. (Perhaps it would be suggested that the reference to "period of disciplinary action" in the present language of the second sentence of sec. 210(b) was intended to include sec. 200(b)'s denial of renewal. But what would the period of "denial of renewal" be? If the intent is to treat as a felony guiding without a license any time after renewal of the license was denied, then language to that effect should be inserted. But if such language were interpreted as applying a long time after the date of denial you might run in to constitutional problems of equal protection, due process, and cruel and unusual punishment; and setting a time period for such cases might be impractical.)

also see § 200(d)

Note that the amendment proposed here also deletes the now inappropriate reference to outfitting, and puts the basic felony penalty statement in Alaska's standard form. It also makes clear that guiding during a period of revocation is felonious whether the license is revoked by the board, under sec. 200(b) or (c), or by the court, under the first sentence of sec. 210(b).

(3) AS 08.54.220 (Injunction Against Unlawful Action), in this Act, contains a questionable reference to "secs. 100 -- 200 of this chapter" and a clearly inaccurate reference to "sec. 210 of this chapter". With regard to the latter, I plan to change (under AS 01.05.031(b)(8)) the reference to read "sec. 50 of this chapter" and request the publisher to put the following note under AS 08.54.220:

> "Revisor's note (1973). In ch. 17 SLA 1973, AS 08.54.-220 referred to 'regulations promulgated under sec. 210'. Since sec. 210 does not provide for promulgating regulations, and sec. 50 does, the citation has been corrected here. (This correction makes this provision comparable in this respect to the former AS 16.50.225, upon which it is based.)"

However, I cannot handle the other citation similarly; there is no clear error to point to. But the following should be considered by those persons interested in the operation of this Act and in determining exactly what action may be enjoined under AS 08.54.220: (a) By citing secs. 100 -- 200,

the section listing conduct which is grounds for discipline (sec. 200) is included but the section listing unlawful acts (sec. 210) is not. In the old AS 16.50, upon which this new AS 08.54 is more-or-less based, just the opposite obtains -- the section on unlawful acts is included and the one on grounds for discipline is not. (See the former AS 16.50.225.) (b) By citing sec. 100 -- 200, we are not merely citing a complete article (in conformity with Alaska drafting style), because that article continues on through sec. 220, but we are including the sections (170 -- 190) which merely set out fees and specify renewal periods.

The present citation of secs. 100 -- 200 may accurately reflect the intent, but I wonder if the matter has been considered.

If you have any question on this, don't hesitate to write. If you would like to pre-file a bill making these corrections or other changes, let us know.

Yours truly,

Art

Arthur H. Peterson
Revisor of Statutes

AHP:lmk
cc: Joel F. Bennett
Legislative Counsel

HB-427

Mr. Alex Sullivan
Chairman, House Judiciary Committee

Dear Sir:

The original bill submitted contained provisions that would have changed the agency charged with administering the Guide board from Commerce to Fish & Game. These provisions have been removed.

The additional language in the bill provides that language currently in the Revenue portion (1973) title 08:54:210 and 08:54.220 be placed in the statutory language. This was requested by Mr. Art Peterson (Cattle Alliance) and that the

If obt Lt

Keith Spurlock

HB-427

Superior Court

State of Alaska

January 29, 1974

BOX 3691
KENAI, ALASKA
99611

941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

CHAMBERS OF
JAMES A. HANSON, JUDGE

Colonel James J. Goodfellow
Director
Division of Fish and Wildlife
Protection
Department of Public Safety
Box 6188 Annex
Anchorage, Alaska 99501

Dear Col. Goodfellow:

I have noted with growing interest the recent pronouncements made by members of your department to the press. Apparently your subordinates have decided to adopt the currently popular practice of blaming all of the problems encountered by the agency on someone else. To an extent I've never before experienced, the courts are the "someone else". By way of example, please refer to the attached article appearing in the January 24, 1974, issue of the Anchorage Daily Times. I will attempt minimal discussion of some of the items appearing therein, but do ask that you look into each case and determine for yourself the falsity of the impression conveyed even when there is some basis in fact for what is written.

In the King case, it is my understanding that a fine of only $1,000.00 was imposed, but that the conditions of probation take him totally out of the bear guiding business for two years. I haven't seen the file--I hope you will, but I'm reasonably certain that eight days court time were not required. Eight appearances maybe--the difference is significant. I probably would not agree with the result of this case if I knew all of the facts. But I am reasonably certain that the fact situation varies considerably from that conveyed in the article. I am also reasonably certain that the article pretty much sets out the facts as given by your sergeant.

Let's go to a case I do know about (circled in red), the Seldovia crab case. (First note how it is related back to the paragraph preceding the circled portion, but let's blame that on the reporter.) The facts are mostly true, the result of the story is a skillful lie, the art of which I am beginning to believe is taught in Sitka. The fine was exactly that asked by the State. Mr. Wardell stated, and I believe him, that the recommendation had been discussed with you personally. The case against the captain was dismissed on the motion of the State. I had no information regarding a prior record, nor in the face of a dismissal motion by the prosecution would it have made a difference. Clearly your people intended to convey, and did convey, the impression that after a hard-fought battle the Court turned a repeat offender loose on society.

Next we go to the statement that the illegal crab was sold for $29,000. No information that any of the catch was legal was presented. I haven't reviewed the record, but my recollection was that about ten percent of the crabs may have been undersized. My arithmatic tells me that that would be $2,900 worth of illegal crab--not $29,000. Most of the facts are accurate. The story, however, is not.

I know nothing about the rest of the story, but suspect it is as deliberately deceiving as is the portion just discussed.

Colonel, I really don't know you too well, but regard you as totally honest--which I am beginning to believe makes you an exception in the Department of Public Safety. You can control the accuracy of the information released by the members of your agency. I hope you will do so.

In closing, I suggest that you review the results of Fish and Game cases generally brought before Magistrate Nicholas in Kenai, or the few cases I have been allowed to handle. I believe in strong enforcement. Then ask Investigator Fleek how his 1970 Anchorage example can be said to sum up the general attitude of the court system towards Fish and Game cases.

Very truly yours,

JAMES A. HANSON, Judge

bcc: Thomas M. Wardell
Sen. W. I. Palmer
Rep. Clem Tillion
Rep. Hugh Malone
Rep. Keith Specking
Judge Jess Nicholas

Courts Lenient On Game Laws

By GORDON FOWLER
Times Sports Writer

Laws are no better than the enforcement they receive.

There are two basic levels of enforcement: the investigators who prepare the cases in the field and subsequently make the arrests; and the courts where the cases are tried and penalties levied upon convictions.

Both levels depend upon one another and neither can properly function without competence in the application of their responsibilities.

Occasionally cases reach the courts improperly prepared or presented and defendants escape punishment through mere technicalities rather than their innocence. However on the other hand, many times investigators and the district attorney's office present "air-tight" cases which result in guilty or "nolo contendre" (no contest) pleas and the court issues punishment which resembles little more than a slap on the hands.

In either case, the ability to provide society with a deterrent to prevent reoccurence of the specific violation escapes. Unless there are scientific investigators to prepare the cases and support of the courts in handing out punishment which provides a deterrent instead of making crime profitable, laws will remain just laws and nothing more.

An Analysis

The Department of Public Safety's fish and wildlife division is charged with the responsibility of enforcing regulations pertaining to Alaska's wildlife resources. Armed with a small staff and equipment limitations, its job has come increasingly difficult as the demand upon the resources has grown along with the state's population.

With the advent of the trans-Alaska pipeline, the pressure upon the resources will be even greater and violation of laws is also expected to rise.

"In order to stop the illegal actions of a few dishonest guides and other individuals who are destroying our resources for the sake of the dollar we need some stiff jail sentences and confiscation of their equipment when we get a good case as good cases are hard to come by," states Sgt. Steve Reynolds, commander of the protection division's Anchorage detachment.

"We have to take the profit out of crime by having penalties that will honestly serve as a deterrent," he adds.

Reynolds, as well as other officers in the fish and wildlife division, and much of the general public became aroused last week when Superior Court Judge Edmond Burke accepted a "nolo contendre" (no contest) plea from Edward King, a Naknek hunting guide, and fined him $1,000.

King also was given a suspended 90-day jail sentence and prohibited from guiding for bears for two-years. However property confiscated from him including his airplane was ordered returned. The sentence did not prohibit other guides working for King from guiding for bear during the period, nor did it halt King from guiding for other animals such as moose, caribou and wolf.

"We had an air tight case, our men and the district attorney's office did a good job and the court has dropped the ball on us again," says Reynolds. "A $1,000 fine is simply no deterrent to a guide who can earn as much as $50,000 during the hunting season. A bear hunt usually will earn a guide $2,000 to $3,000 from each hunter."

According to Reynolds, King got off light and it was the taxpayers who paid the penalty — at a very minimum, $8,600 worth.

Reynolds, along with special investigators Wayne Fleek and Jim Nutgrass, who were responsible for most of the investigation leading to the arrest of King, gave this reporter the following breakdown on the cost of the King case to the taxpayer.

A total of 68 man days or 544 man hours were spent on the case. In dollars and cents this represented $4,352. To this add $1,480 for aircraft usage based on a minimal $40 per hour figure.

Tickets for flying suspects and officers back to Anchorage cost $320, and $1,124 was paid for witness man hours, $560 per diem to witnesses and $590 in airplane travel cost for witnesses. There was a minimum of $240 required for hours spent by the district attorney's office.

Numerous other expenditures were involved in work done by the Seattle Police Department laboratory, film processing, secretarial costs, booking costs at the state jail, and the eight days in the courtroom tieing up a Superior Court judge and a recorder.

Everything figured, the case easily cost over $9,000 from start to finish. At this price tag, society netted a $1,000 fine from King, despite his handsome profit over the many seasons he has been guiding in Alaska.

The King case isn't the first of its kind in which the courts have been lenient for varying

(Continued On Page 32)

(Continued From Page 29)

reasons on disposition of fish and game cases. The record books at the Department of Public Safety are full of them.

No two court cases are exactly alike, and certainly there are extenuating circumstances which are taken into consideration many times when a judge renders penalties following a guilty verdict or "nolo contendre" pleas.

Justice however is certainly questioned when a man goes to jail for stealing a loaf of bread and receives a small fine and probation for violation of game laws which not only is stealing from society but often nets the violator thousands of dollars in profit.

Such was the case in the fall of 1973 when four men (a captain of a commercial fishing vessel and his three crewmen) were arrested in the Seldovia area for possession of undersized crab. The three crewmen were fined $5,000 each with half suspended, so between them they paid a $7,500 fine. The captain of the ship, Silas Naig pleaded innocent, stating he didn't know the crab were aboard his boat. The case against him was dismissed. He had a prior violation on his record.

The strangest part of the disposition of the case was that the state, after confiscating the illegal crab, sold it to the cannery for over $29,000, then after withholding the amount of the fine to the crewmen, the state returned the remainder to the fishermen, netting them a profit of $22,000 for the illegal actions.

The maximum fine they could have received was one year in jail, seizure of their vessel and gear as well as the crab and a $5,000 fine each. In addition, their fishing licenses could have been revoked. Instead, the venture proved grossly profitable.

In Fairbanks in 1971, guide Joe Want was arrested for taking moose illegally. It is a matter of record that he tried to plead guilty. However, the judge advised him a guilty plea would result in him losing his guides license since he had a prior conviction. Want changed his plea to not guilty and he was found not guilty by the court.

The late John Ehmann, a guide from Palmer, and a partner were arrested in 1973 for shooting two wolverines from an aircraft. They entered "nolo contendre" pleas and were fined $100. In addition, the court gave them one hide back, although laws stipulate that fish and game taken in violation of the law will be confiscated if the defendants are found guilty.

In 1971, Stu Ramstad was fined $6,000 in a case involving eight counts of illegally taking brown bear and transportation of the hides to Juneau. Although his airplane was filed on the court allowed him to keep it.

As in the King case, although his guide license was revoked, his lodge remains open and people working under him can still guide. Ramstad, like King and others hold air taxi licenses, so can still fly and guide for other species.

The many complications of the court system are evident in cases such as the one that involves guide Ray Loesch. Loesche had his guide's license revoked by the Alaska Board 1972, for a May 1971 incident which involved a client and an assistant guide working for Loesche.

The pair was convicted of a total of nine violations between them basically for taking brown bear the same day as airborne. However, Loesche appealed to the court after losing his license stating he felt the board had no right to take it.

He was given his license back by the court pending the outcome of his appeal. However two years later he continues to guide and the appeal still hasn't been heard.

In the meantime he was arrested last October on a similar charge involving taking brown bear the same day as airborne in Katmai National Park. This case also is pending.

He has two previous convictions for game violations in 1968 and is still guiding, pending court disposition on his cases. In general, Wayne Fleek, special investigator for the Department of Public Safety's protection division, states there is very poor court reaction towards commercial fishing violations rather than offenses involving guides.

"Fishermen make a bundle on their illegal catches and seldom is the penalty more than a mere hand slap. They are allowed to keep their illegal catches and actually profit by their violations," says Fleek.

However, a case in Anchorage during 1970 seems to sum up the general attitude of the court system towards fish and game cases.

An out-of-stater was arrested for making a false statement in trying to get a resident license. The defendant pleaded guilty and the judge fined him one cent, with one cent suspended!

"Our cases often don't seem to warrant a red cent's worth of consideration," says Fleek.

HB 499

April 9, 1974

William T. Waugaman
Usibelli Coal Mine Inc.
270 Illinois Street
Fairbanks, Alaska 99701

Dear Bill,

Keith Specking has turned over your letter on HB 499. The time is getting awfully short to face up to this division but will see what I can do. I really have no objection to the division as long as all fish are left under the control of one board, and all game left under the control of another. I've always had a fear of the sports biologist up stream disagreeing with the commercial biologist down in the salt water--to the loss of the resource. Seems we've accomplished this without a division; so the fear of same seems to be groundless.

I'll have Keith down to work on the bill.

Sincerely,

Clem Tillion

Dear Ruth:
I sent this testimony to Joe
Card sent it to you (if not
you should have a copy.
Bill

My name is William Waugaman. I have been a resident of Alaska for the past thirty-four years and a big game guide since 1947. I have guided in practically every guide district of Alaska and have hunted on guided hunts in many foreign countries.

I am in favor of House Bill 499 for many reasons of which I will mention several of the most important:

1. I have attended several of the Fish & Game board meetings throughout the years and have observed: that the board has much too much work than any non-paid board should be expected to accomplish. In other words the work load of the board should be considerably lessened.
2. The present board consists of eleven commercial fish members and one game member.
3. I don't think commercial fish people should be making the game regulations nor do I think that game people should be making Fish regulations.
4. We have had very serious game problems in the interior for the past five years and todate the board nor the Fish & Game Dept. has done anything to change the trend. The problem being: serious reductions in game population, no control of predators, great increases in hunting pressure.

I think the hunters and guides of this state should be given the opportunity to guide the destiny of their resource and I hope you legislators see fit to give them a voice instead of a whisper.

William I. Waugaman

Judiciary Committee Report

on

HOUSE BILL NO. 801

In considering the practical effect of House Bill No. 801, the committee investigated the current law on the collection of gambling debts. A case in point is the landmark decision in McGinley & Cleary, written August 8, 1904, by Judge Wickersham.

Due to the clarity and force of logic expressed in this ruling, it is cited here for your review:

(INSERT DECISION HERE)

Thus, the current law states "Equity will not become a gambler's insurance company..."

House Bill No. 801 would also prevent others from acting in this capacity.

Clem Tillion, Chairman
House Judiciary Committee

McGINLEY v. CLEARY.

(Third Division. Fairbanks. August 8, 1904.)

No. 125.

1. CANCELLATION OF INSTRUMENTS—FRAUD—GAMING CONSIDERATION—INTOXICATION.

Equity will grant relief where the transfer of a valuable property has been fraudulently extorted, for a grossly inadequate consideration, from a person in such a state of intoxication as not to be in his right mind or capable of transacting any business or entering into any contract.

[Ed. Note.—For cases in point, see vol. 8, Cent. Dig. Cancellation of Instruments, §§ 1, 6; vol. 10, Cent. Dig. Contracts, §§ 412, 414.]

2. GAMING—EQUITY—FRAUD.

Plaintiff was the proprietor of a saloon. He gambled with defendant therein with dice, and lost $1,800. To pay his loss he conveyed the premises in dispute. Upon a suit in equity to recover, *held*, that equity will not assist a gambler to recover losses at his own game.

[Ed. Note.—For cases in point, see vol. 24, Cent. Dig. Gaming, §§ 26, 84.]

On the 29th of last November the plaintiff was, and for some time previous thereto had been, one of the proprietors of that

certain two-story log cabin described in the pleadings as the "Fairbanks Hotel," situate upon lot 1, Front street, in the town of Fairbanks, Alaska. The opening scene discovers him drunk, but engaged on his regular night shift as barkeeper in dispensing whisky by leave of this court on a territorial license to those of his customers who had not been able, through undesire or the benumbing influence of the liquor, to retire to their cabins. The defendant was his present customer. After a social evening session, the evidence is that at about 3 o'clock in the morning of the 30th they were mutually enjoying the hardships of Alaska by pouring into their respective interiors unnumbered four-bit drinks, recklessly expending undug pokes, and blowing in the next spring cleanup. While thus employed, between sticking tabs on the nail and catching their breath for the next glass, they began to tempt the fickle goddess of fortune by shaking plaintiff's dicebox. The defendant testifies that he had a $5 bill, that he laid it on the bar, and that it constituted the visible means of support to the game and transfer of property which followed. That defendant had a $5 bill so late in the evening may excite remark among his acquaintances.

Whether plaintiff and defendant then formed a mental design to gamble around the storm center of this bill is one of the matters in dispute in this case about which they do not agree. The proprietor is plaintively positive on his part that at that moment his brains were so benumbed by the fumes or the force of his own whisky that he was actually non compos mentis; that his mental faculties were so far paralyzed thereby that they utterly failed to register or record impressions. His customer, on the other hand, stoutly swears that the vigor and strength of his constitution enabled him to retain his memory, and he informed the court from the witness stand that while both were gazing at the bill, the proprietor produced his near-by dicebox, and they began to shake

for its temporary ownership. Neither the memory which failed nor that which labored in spite of its load enabled either the proprietor or the customer to recall that any other money or its equivalent came upon the board. The usual custom of $500 millionaires grown from wild cat bonanzas was followed, and as aces and sixes alternated or blurringly trooped athwart their vision, the silent upthrust of the index finger served to mark the balance of trade.

They were not alone. Tupper Thompson slept bibulously behind the oil tank stove. Whether his mental receiver was likewise so hardened by inebriation as to be incapable of catching impressions will never be certainly known to the court. He testified to a lingering remembrance of drinks which he enjoyed at this time upon the invitation of some one, and is authority for the statement that when he came to the proprietor was so drunk that he hung limply and vine-like to the bar, though he played dice with the defendant, and later signed a bill of sale of the premises in dispute, which Tupper witnessed. Tupper also testified that the defendant was drunk, but according to his standard of intoxication he was not so entirely paralyzed as the proprietor, since he could stand without holding to the bar. Not to be outdone either in memory or expert testimony, the defendant admitted that Tupper was present, that his resting place was behind the oil tank stove, where, defendant testifies, he remained on the puncheon floor in slumberous repose during the gaming festivities with the dicebox, and until called to drink and sign a bill of sale, both of which he did according to his own testimony. One O'Neil also saw the parties plaintiff and defendant about this hour in the saloon, with defendant's arm around plaintiff's neck in maudlin embrace.

After the dice-shaking had ceased, and the finger-tip bookkeeping had been reduced to round numbers, the defendant testifies that the plaintiff was found to be indebted to him in

the sum of $1,800. Whether these dice, which belonged to the bar and seem to have been in frequent use by the proprietor, were in the habit of playing such pranks on the house may well be doubted; nor is it shown that they, too, were loaded. It is just possible that mistakes may have occurred pending lapses of memory by which, in the absence of a lookout, the usual numbers thrown for the house were counted for the defendant, and this without any fault of the dice. However this may be, the defendant swears that he won the score, and passed up the tabs for payment.

According to the defendant's testimony, the proprietor was also playing a confidence game, whereupon, in the absence of money, the defendant suggested that he make him a bill of sale of the premises. Two were written out by defendant. The second was signed by plaintiff and witnessed by Tupper, and for a short time the defendant became a tenant in common with an unnamed person and an equitable owner of an interest in the saloon. The plaintiff testifies that during all this time, and until the final act of signing the deed in controversy, he was drunk, and suffering from a total loss of memory and intelligence. The evidence in support of intelligence is vague and unsatisfactory, and the court is unable to base any satisfactory conclusion upon it.

Above the mists of inebriety which befogged the mental landscape of the principals in this case at that time rise a few jagged peaks of fact which must guide the court notwithstanding their temporary intellectual eclipse. After the dice-throwing had ceased, the score calculated, and the bills of sale written, and the last one conveying a half interest in the premises signed by the plaintiff, he accompanied the defendant to the cabin of Commissioner Cowles, about a block away, on the banks of the frozen Chena, and requested that official to affix his official acknowledgment to the document. Owing to their hilarious condition and the early hour at which they so rudely

broke the judicial slumbers, the commissioner refused to do business with them, and thrust them from his chamber. He does not testify as to the status of their respective memories at that time, but he does say that their bodies were excessively drunk; that of the defendant being, according to the judicial eye, the most wobbly. He testifies that the plaintiff was able to and did assist the defendant away from his office without any official acknowledgment being made to the bill of sale. The evidence then discloses that, in the light of the early morning, both principals retired to their bunks to rest; witness Sullivan going so far as to swear that the plaintiff's boots were removed before he got in bed.

The question of consideration is deemed to be an important one in this case. Defendant asserts that it consisted of the $1,800 won at the proprietor's own game of dice, but Tupper Thompson relapses into sobriety long enough to declare that the real consideration promised on the part of the defendant was to give a half interest in his Cleary creek placer mines for the half interest in the saloon; that defendant said the plaintiff could go out and run the mines while he remained in the saloon and sold hootch to the sour-doughs, or words to that effect. Tupper's evidence lacks some of the earmarks; it is quite evident that he had a rock in his sluice box. The plaintiff, on the other hand, would not deny the gambling consideration; he forgot; it is much safer to forget, and it stands a better cross-examination.

The evidence discloses that about 3 or 4 o'clock p. m. on the evening of the 30th the defendant went to the apartment of the proprietor, and renewed his demand for payment or a transfer of the property in consideration of the gambling debt. After a meal and a shave they again appeared, about 5 o'clock, before the commissioner; this time at his public office in the justice's court. Here there was much halting and whispering. The bill of sale written by Cleary was presented to the pro-

prietor, who refused to acknowledge it before the commissioner. The commissioner was then requested by Cleary to draw another document to carry out the purpose of their visit there. The reason given for refusing to acknowledge the document then before the commissioner was that it conveyed a half interest, whereas the plaintiff refused then to convey more than a quarter interest. The commissioner wrote the document now contained in the record, the plaintiff signed it; it was witnessed, acknowledged, filed for record, and recorded in the book of deeds, according to law.

The deed signed by McGinley purports to convey "an undivided one-fourth (¼) interest in the Fairbanks Hotel, situate on lot No. one (1) Front street, in the town of Fairbanks." The consideration mentioned is one dollar, but, in accordance with the finger-tip custom, it was not paid; the real consideration was the $1,800 so miraculously won by the defendant the previous night by shaking the box. Plaintiff soon after brought this suit to set aside the conveyance upon the ground of fraud (1) because he was so drunk at the time he signed the deed as to be unable to comprehend the nature of the contract, and (2) for want of consideration.

It is currently believed that the Lord cares for and protects idiots and drunken men. A court of equity is supposed to have equal and concurrent jurisdiction, and this case seems to be brought under both branches. Before touching upon the law of the case, however, it is proper to decide the questions of fact upon which these principles must rest, and they will be considered in the order in which counsel for plaintiff has presented them.

Was McGinley so drunk when he signed the deed in controversy that he was not in his right mind, or capable of transacting any business, or entering into any contract? He was engaged, under the ægis of the law and the seal of this court, in selling whisky to the miners of the Tanana for four bits

a drink, and more regularly in taking his own medicine and playing dice with customers for a consideration. Who shall guide the court in determining how drunk he was at 3 o'clock in the morning, when the transaction opened? Tupper or the defendant? How much credence must the court give to the testimony of one drunken man who testifies that another was also drunk? Is the court bound by the admission of the plaintiff that he was so paralized by his own whisky that he cannot remember the events of nearly 24 hours in which he seems to have generally followed his usual calling? Upon what fact in this evidence can the court plant the scales of justice that they may not stagger?

Probably the most satisfactory determination of the matter may be made by coming at once to that point of time where the deed in question was prepared, signed, and acknowledged. Did the plaintiff exhibit intelligence at that time? He refused to acknowledge a deed which conveyed a half interest, and caused his creditor to procure one to be made by the officer which conveyed only a quarter interest; he protected his property to that extent. Upon a presentation of the deed prepared by the officer, he refused to sign it until the words "and other valuable consideration" were striken out; thus leaving the deed to rest on a stated consideration of "one dollar." Upon procuring the paper to read as he desired, he signed it in a public office, before several persons, and acknowledged it to be his act and deed.

Defendant says that the deed was given to pay a gambling debt lost by the plaintiff at his own game, and his counsel argues that for this reason equity will not examine into the consideration and grant relief, but will leave both parties to the rules of their game, and not intermingle these with the rules of law. He argues that they stand in pari delicto, and that, being engaged in a violation of the law, equity ought not to assist the proprietor of the game to recover his bank roll.

It may be incidently mentioned here, as it has been suggested to the court, that the phrase pari delicto does not mean a "delectable pair," and its use is not intended to reflect upon or characterize plaintiff and defendant.

Bion A. Dodge, for plaintiff.
Claypool & Cowles, for defendant.

WICKERSHAM, District Judge. The plaintiff prays judgment that the transfer made to the defendant, Cleary, be vacated as fraudulent and void (1) because he was intoxicated at the time it was made, signed, and delivered, and (2) because no consideration was paid therefor. Equity will grant relief where the transfer of a valuable property has been fraudulently extorted, for a grossly inadequate consideration, from a person in such a state of intoxication as not to be in his right mind, or capable of transacting any business or entering into any contract. Thackrah v. Haas, 119 U. S. 499, 7 Sup. Ct. 311, 30 L. Ed. 486.

The evidence in this case raises the single question, will a court of equity set aside a deed made by the keeper of a saloon in payment of a gambling debt contracted by him to one of his customers when no other fraud is shown? By the common law no right of action exists to recover back money which has been paid upon a gambling debt. 8 Am. & Eng. Ency. of Law (1st Ed.) 1021. In Brown v. Thompson, 14 Bush (Ky.) 538, 29 Am. Rep. 416, the court held that the keeper of a faro bank, who sued to recover losses against one who had won by betting against the bank, was not within the spirit of the Kentucky statute, although his claim was within the letter, and accordingly refused to maintain his action. The general policy of the courts in suits to recover gambling losses is clearly stated by Judge Ross in Gridley v. Dorn, 57 Cal. 78, 40 Am. Rep. 110, where he says:

"The impropriety of the court's entertaining such actions as this is well illustrated by the circumstances of the present case, for it appears from the record to have been conceded in the court below that the right of the plaintiff to recover depended upon the question whether the wager made was a 'by bet' or a 'time bet.' To determine this question several witnesses were introduced, who gave their opinion in the matter, and we have been cited by counsel to the 'Spirit of the Times' and the 'Rules of the National Trotting Association' as authorities upon the proposition. These are, we believe, standard authorities in turf matters, but cases which depend upon them have no place in the courts. If, notwithstanding the evil tendency of betting on races, parties will engage in it, they must rely upon the honor and good faith of their adversaries, and not look to the courts for relief in the event of its breach."

There are cases where courts will assist in the recovery of money or property lost at gambling, but this is not one of them. The plaintiff was the proprietor of the saloon and the operator of the dice game in which he lost his property. He now asks a court of equity to assist him in recovering it, and this raises the question, may a gambler who runs a game and loses the bank roll come into a court of equity and recover it? He conducted the game in violation of law, conveyed his premises to pay the winner's score, and now demands that the court assist him to regain it. Equity will not become a gambler's insurance company, to stand by while the gamester secures the winnings of the drunken, unsuspecting, or weak-minded in violation of the law, ready to stretch forth its arm to recapture his losses when another as unscrupulous or more lucky than he wins his money or property. Nor will the court in this case aid the defendant.

The cause will be dismissed; each party to pay the costs incurred by him, and judgment accordingly.

HB-816

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S–JUNEAU 99801

March 29, 1974

Honorable Dick Randolph, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska

Dear Mr. Randolph:

This is in response to the Committee's request for problem definition in support of the Vehicle Dismantler's legislation, HB 816.

The Department of Revenue has three major concerns relating to the wrecking of vehicles: (1) protection of the legal owner's interest prior to vehicle destruction, (2) the purging of our records, and (3) control of the Titles of destroyed vehicles to prevent their illegal use.

Associated with the first concern is the knowledge that thousands of vehicles are destroyed, or at least held, in vehicle wrecking yards without the assurance that the vehicle owner has been notified or that the owner has authorized the destruction.

Associated with the second concern is the overflowing status of our title files. We have almost two million title folios and an active vehicle population under 300,000. A substantial number of these folios represent vehicles which have been destroyed or vendered inoperable (perhaps as many as 250,000 over the years). We are paying $1.00 per square foot monthly for our title folio file. Approximately $5,000.00 annually would be saved if the file was currently purged. The purging function will get more significant as our vehicle population grows.

The third concern is related to the effective control of stolen vehicles. Title Certificates from wrecked vehicles are negotiable and are being used, particularly in the Anchorage area, in the sales of stolen vehicles. Functions authorized by this legislation concert with the Abondoned

Vehicle Act of 1973, and some basic vehicle inspection which will begin in the near future is expected to provide an effective control.

There are 34 licensed wrecking yards that are authorized to do impounding in the state (ref. Al Davis Alaska Transportation Commission). It is estimated that there is in excess of 100 other establishments that do some type of dismantling.

There are four major wrecking yards in the Greater Anchorage Area and two in Fairbanks. Personnel from the Greater Anchorage Area Borough Environmental Control section estimate that each of the large wrecking yards in Anchorage have in excess of 1,000 dismantled vehicles on their property. Fairbanks Alaska State Troopers estimates each of their wrecking firms have in excess of 500 dismantled vehicles.

In 1973, the division received less than 500 titles from all wrecking yards indicating vehicles were dismantled.

Sincerely,

P.A. Wall, Director
Administrative Services
Department of Revenue

PAW:es

cc: C.L. Pyles
R. Kimlinger

3/20/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 105
amended by the House Judiciary Committee

In an attempt to encourage prompt and reasonable settlements and to compensate an injured party for his loss of capital and further injury while awaiting the trial, this bill provides for the addition of interest to an award of damages for the time prior to judgment. No interest will be allowed when there is a bona fide offer of settlement made within 30 days of the date the cause of action arose if the amount of money offered at least equals the damages awarded. And if such an offer is made later than 30 days after the cause of action arose, interest may be allowed for the period prior to the offer.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 112

This bill generally increases the efficiency of state bonding. It adds redemption premiums to the state's pledge of full faith, credit and resources; removes any question of the legality of the type of bond sold after the earthquake in 1964; permits the spreading of payment over a period greater than 30 years; assures nationwide public notice of the sale of state bonds, thereby increasing the market for them; permits facsimile signatures on state bonds and on bonds issued by political subdivisions of the state; permits a "designee in the department" of a member of the state bond committee to act in the place of the member; and permits the state bond committee to designate one of its members to act when necessary to effectuate the committee's duties if that is not inconsistent with other law.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on the

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 140

This committee substitute eliminates one basis for admission to the Alaska Bar. The subsection being repealed states in essence, that an applicant is eligible for admission if he has passed a bar examination in another state, is a member in good standing of the bar of that state, has been a resident of Alaska for at least three years, has been employed in Alaska in work of a legal nature for at least three years and the Supreme Court determines that it is in the best interest of those served by the legal profession that he be admitted.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 160

This bill establishes a new time limitation for certain actions, i.e. those brought against the responsible architect, builder or similar person, based on a defect in the design, construction, etc. of an improvement to real property and those based on an injury caused by that defect. Whether the case is based on the defect itself or on the resulting injury the time begins running upon "substantial completion" of the improvement; consequently this bill limits not only the bringing of the cause of action, but in effect prevents the cause of action from arising when an injury occurs after the time limitation has expired. An action based on a defect not discovered until after the time limitation has expired would likewise be precluded.

However, this limitation does not affect the bringing of an action against the person in possession or control of the improvement (e.g., as an owner or tenant).

Tom Fink
Chairman

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 165

This bill establishes an additional method of handling some prisoners. In certain cases the commissioner of the Department of Health and Welfare may direct that a prisoner be permitted to continue in his regular employment, or may authorize him to secure employment, unless the court at the time of sentencing has prohibited work furloughs for that prisoner. The earnings of the prisoner shall be collected by the commissioner for payment of support of the prisoner's dependants, if any, and for payment of the prisoner's board and personal expenses inside and outside the prison facility. The balance shall be paid to the prisoner at the time of his discharge.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 175
amended by the House Judiciary Committee

This bill requires the Department of Labor to follow the same procedures as all other encumbrancers when placing a lien on motor vehicles as a means of securing payment under the Employment Security Act. Either the instrument creating the lien shall be accompanied by the vehicle's certificate of title or a new certificate shall be issued bearing evidence of the encumbrance.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 176

This bill simply prohibits the use of the streets and public thoroughfares of a city for the business of furnishing water by tank, wagon or other conveyance unless a franchise has been granted by the city council. The council is given the authority to regulate water distribution.

_____

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 178

This bill establishes the concept that a person who operates a motor vehicle upon the public highways has "impliedly consented" to chemical tests of his blood, breath or urine for determining the alcohol content of his blood if he is arrested for an offense arising out of acts alleged to have been committed while he was driving while under the influence of intoxicating liquor. A standard for determining whether a person is "under the influence" is also established.

Tom Fink, Chairman

3/11/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 201
amended by the House Judiciary Committee

This bill requires that agencies providing child placement and counseling services be licensed, and thereby assures the public that persons primarily engaged in offering these services possess a certain degree of training and competence and adhere to certain standards.

_____

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 207

This bill helps protect freedom of religion and the right to live in accordance with one's religion so long as others are not endangered. A schoolchild whose parents, on the grounds of religious principles, object to the physical examination or immunization of him may be examined or immunized only under certain circumstances.

Tom Fink, Chairman

3/9/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 211

This bill is very similar to House Bill No. 90 which recently passed the House of Representatives in the State of Washington. It protects news reporters and elected public officials from being compelled to disclose their sources of information, except when there is a judicial determination by the superior or supreme court that withholding testimony on the source of information would be contrary to the public interest or would result in a miscarriage of justice or the denial of a fair trial to those who challenge this privilege. The bill contains certain limitations on the privilege, recognizing the need to protect individual rights while relieving reporters and public officials from unnecessary pressures to disclose their sources of information.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 221

This bill applies to colleges and universities the prohibition against the location of liquor outlets within 200 feet of school grounds and churches. In areas outside of incorporated cities it leaves to the persons residing within a one mile radius of a proposed outlet (i.e., the persons most directly affected) the determination, provided other requirements of law are met, of whether a liquor license should be issued. (See AS 04.10.440) Other changes proposed by the bill make the measurement of the 200 feet more certain.

Tom Fink, Chairman

7/9/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 230

This is one of several bills enhancing the Alaska judiciary. It requires that a district judge be licensed to practice law in Alaska, rather than just in any one of the United States. Through committee amendment, it increases his Alaska residence requirement from 90 days to one year, but to provide for filling vacancies when no person with these qualifications is available the position of acting district judge is created, for which there is no residence or law-practice requirement. The term of an acting district judge is limited to twelve months.

In addition, this bill changes the method of selection of district judges and magistrates. By requiring the judicial council to nominate two or more persons for the selection of one by the governor, the presiding judge of the superior court in each judicial district is relieved of the obligation to make the appointments.

Tom Fink, Chairman

3/10/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 236

This bill requires that all automobile insurance policies sold in this state provide the minimum coverage specified in AS 28.20.440(b)(2), and, unless waived as provided in AS 28.20.440(b)(3), contain an uninsured motorist clause. Legislation enacted in 1966, seeking to accomplish this end, was not a general provision and therefore has only limited application.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT ON CS FOR HB 247

The basic change in existing law made by this bill is the removal of the concept of "fault" (for a divorce) from consideration in the award of child custody. "Fault" for the divorce is not necessarily relevant to the question of which parent could best take care of the child, particularly in Alaska where the far greater percentage of divorces are granted on the grounds of "incompatibility." In this bill the court is given guidelines to assist it in awarding child custody. The bill also makes both parents responsible for the future welfare of the child, rather than just requiring payments from "the party in fault" as under present law. In this connection payments made by the parent not having custody would go into a trust fund for the child when the parent having custody remarries, unless it is manifest that the child's present welfare requires that the payments to the parent having custody continue.

The bill also abolishes the concept of "fault" with regard to alimony, and requires that an award of alimony to either party be based on a consideration of need, ability to earn a living (as affected by age or physical condition) and other appropriate factors. It is not, however, the intent to require divorced mothers who are awarded custody of the child to place the child in a nursery so the mother can go out and work to support herself. (She will already be receiving support payment for the child.) This is one of the factors to be considered by the court. Distribution of property is also changed by the bill so that only property acquired during the marriage can be awarded. The parties would still be free, of course, to make some other contractual arrangement.

In addition, the bill extends to both parties the courtesy presently extended only to the wife by requiring her to deliver to the

husband his personal property which is in her possession or control at the time of giving the judgment.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 252 amended

This bill raises the fees for set or stake gill net licenses and makes special provision for persons whose gross income for the previous calendar year was less than $3,600.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 253 amended

This bill raises the fees for drift gill net licenses and makes special provision for persons whose gross income for the previous calender year was less than $3,600.

Tom Fink, Chairman

3-12

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 255

This bill provides for the enforcement of municipal liquor-control ordinances by applying the same sanctions that are available for enforcement of state liquor laws.

_____

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 256

Under present law a person can be convicted of reckless driving or of driving under the influence of intoxicating liquor only if he is driving "upon a public street or highway." This bill removes that condition, so that driving in a parking lot or other place likely to endanger the public would be covered.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 266

This bill alleviates the problem faced by some of the smaller cities when conventions are held there. It is a general grant of permission to holders of a "club license" to serve alcoholic beverages to nonmember conventioneers when, due to a convention, the regular dispensing facilities are inadequate, as certified by the Alcoholic Beverage Control Board.

Tom Fink, Chairman

3/23/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 286

This bill applies the same sanctions to violations of municipal liquor control ordinances as to violations of state liquor control statutes. It also makes clear that for a second or third violation to bring a more severe penalty the violations need not all be of the same ordinance or statute.

Tom Fink, Chairman

Ark

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 287

The basic change proposed by this bill is the placing of the incorporation and dissolution of cities in the hands of the Local Boundary Commission instead of the courts. It also prohibits the incorporation of third and fourth class cities within an organized borough, and adds a new basis for the dissolution of home rule and general law cities in an organized borough, i.e. the consent of the borough to assume the city's rights, powers, duties, assets and liabilities.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 290

This bill gives the Alaska Transportation Commission the authority to suspend a rate change by a motor freight carrier for up to 180 days, pending a hearing and decision on the reasonableness of the change. Under present law the commission has the authority to reject a change, but pending its decision the change can remain in effect.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 300

This bill seeks to protect children against neglect or abuse by requiring rat) er than just permitting medical personnel, school teachers and social workers to report to the Department of Health and Welfare cases when it is believed the child suffered physical injury due to abuse, neglect or starvation. The bill also requires that these reports be in writing and that the department forward copies to the largest hospital in the vicinity where the injury is discovered so that medical personnel, probation officers and agencies offering child protective services can review them.

Tom Fink, Chairman

7/1/57

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 322

This Bill modifies the court rules providing for a stay of imprisonment. If the defendant is admitted to bail the sentence of imprisonment will be stayed pending an appeal. However, if he is not admitted to bail a facility may be designated where he will be detained pending appeal or admission to bail.

Tom Fink, Chairman

3/11/67

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 13

This bill simply assures blind persons that they may take their guide dogs with them, free of charge, into public facilities notwithstanding the possible prohibition in local ordinances or "company policy".

Tom Fink, Chairman

3/30/77

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 45

This bill authorizes the director of the Division of Lands, with the approval of the commissioner of the Department of Natural Resources, to grant state land to a corporation for construction of a railroad and establishes the procedure for doing so. It also provides that the land reverts in the state under certain circumstances.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

HCS FOR SENATE BILL NO. 51 amended

This bill helps preserve the state's wildlife resources by requiring non-residents, hunting for certain species of animals, to be accompanied by a guide licensed in this state.

3/25/

JUDICIARY COMMITTEE REPORT

ON

CS FOR SENATE BILL NO. 74 am

This bill adds to the regular penalties of fine and imprisonment the suspension of the driver's license of a person convicted more than once of driving a vehicle without the owner's consent.

Tom Fink, Chairman

3/10/67

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 90 amended

This bill provides for greater efficiency in the Department of Highways by allowing a designee of the commissioner, within the department, to sign an order for a declaration of taking in eminent domain proceedings. It also requires rather than just permits the department to pay into court the reasonable value of the property taken.

Tom Fink, Chairman

3/19/67

JUDICIARY COMMITTEE REPORT

on

CS FOR SENATE BILL NO. 99

Prompted by growing concern over the hazards of ski areas and a recent court case in Washington seeking to hold a ski tow operation as owner to the standard of care of a common carrier, this bill simply clarifies the status and liability of such persons. It also protects them from regulation as a common carrier.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 102

Under present law a bank may disclose its records pertaining to customers and depositors in only four situations. This bill adds one more, so that a bank, lending institution, credit bureau or retail outlet extending credit to an individual may obtain information from the individual's own bank regarding his credit rating. This bill does not permit his bank to disclose his exact deposit balance.

Tom Fink, Chairman

3/14/67

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 114

This bill simply applies to veterans of the Viet Nam war the same employment-preference benefits presently applied to veterans of the two world wars and the Korean War.

Tom Vink, Chairman

3/29/67

HOUSE JUDICIARY COMMITTEE REPORT

ON

CS FOR SB 142

This bill attempts to codify the law with respect to the burden of proof in medical and dental malpractice actions and counter the 1964 case of Patrick v. Sorsdick, Alaska, 391, P. 2d 453, the effect of which is said to be an intolerable [illegible] of law resulting in astronomically high malpractice insurance rates. Basically the bill requires that, in these actions, negligence be proved and not presumed.

Tom Fink, Chairman

3/23/17

JUDICIARY COMMITTEE REPORT

on

HOUSE COMMITTEE SUBSTITUTE

for

SENATE BILL NO. 145

This bill brings into conformity with the Alaska Uniform Commercial Code the language of the provision prohibiting removal from the state of an encumbered motor vehicle. Under AS 45.05.690 to AS 45.05.794 a secured transaction is one which, regardless of form, is intended to create a security interest in personal property or fixtures. See AS 45.05.692(a). The common terms "chattel mortgage" and "conditional sales contract" are included in the term "security interest".

Tom Fink, Chairman

3/27/87

JUDICIARY COMMITTEE REPORT

TO

HCS FOR SB 156

This bill attempts to assure state employees using air charter services of greater safety by removing the competitive bid requirement for these services. Contractual arrangements for these services will still be possible, but in the absence of a formal contract reasonable fees established by the Department of Administration will apply, and the employee actually flying in the aircraft may select the charter service to be used. Also, the department may promulgate regulations establishing minimum standards for air charter services to be used by state employees. The emphasis will be on the qualifications of the pilot and his aircraft.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 178

This bill provides for the greater effeciency of the state ferry system by permitting the hiring of persons who are not United States citizens for handling ferry business in Canada.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 181

This bill simply adds the Board of Fish and Game to the list of state agencies covered by the Administrative Procedure Act.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 191

This bill simply extends to July 1, 1967, the time for making application for earthquake disaster relief. The present deadline is July 1, 1966.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 192

This bill establishes the Alaska Toll Bridge Authority to handle the financing and construction of toll facilities in the state.

Tom Pink, Chairman

AMENDMENT

Offered in the HOUSE BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 105

Page 1, line 10: Insert "(a)" before the word "Unless"

Page 1, lines 12 - 17: Delete all material up to the period in line 17 and substitute:

damages awarded by the jury or the court interest on the entire amount of the award or a portion of it. The interest shall be calculated at the legal rate from the date the cause of action arose to the date of entering judgment, and it shall be included in the judgment.

(b) If a bona fide offer of settlement was made within 30 days of the date the cause of action arose and the amount offered at least equals the amount of the judgment no interest may be allowed for any of the time before judgment. If this offer was made later than 30 days after the cause of action arose interest may be allowed only for the period before the date of the offer.

Page 1, line 17: Begin a new paragraph and insert "(c)" before "The rate"

3/17/67

AMENDMENT

Offered in the HOUSE BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 112

Page 2, line 12: Between the comma and "at" insert:

"in one published in San Francisco, California, and in one published in Chicago, Illinois,"

Page 2, lines 24 - 29 and Page 3, lines 1 - 6: Delete all matter and insert:

Sec. 37.15.080. SIGNATURES AND SEAL. (a) Each bond shall be signed on behalf of the state by the governor and attested by the secretary of state, [ONE OF] which signatures may be [A] facsimile signatures [SIGNATURE]. The seal of the state shall be impressed, imprinted or otherwise reproduced on each bond. Each interest coupon attached to the bond shall be signed by the facsimile signatures of the governor and secretary of state. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, the signature is, nevertheless, valid and sufficient for all purposes, as if the officer had remained in office until delivery.

(b) A signature required on a bond issued by a political subdivision of the state may be a facsimile signature.

Page 3, lines 13 and 14: Delete "principal deputy or assistant" and insert:

"designee in the department"

A M E N D M E N T

Offered in the House By the Judiciary Committee

To: HOUSE BILL NO. 175

Page 1, line 15: Delete all material after the period

Page 1, line 16: Delete all material and add the following:

* Sec. 2. AS 28.10.530(a) is amended to read:

(a) Filing as provided in sec. 480 of this chapter is the exclusive method of giving constructive notice of a lien or encumbrance upon a registered vehicle [THE METHOD PROVIDED IN SEC. 510 OF THIS CHAPTER OF GIVING CONSTRUCTIVE NOTICE OF A LIEN OR ENCUMBRANCE UPON A REGISTERED VEHICLE IS EXCLUSIVE], except as to liens dependent upon possession, and a lien or encumbrance or title retention instrument which is filed and documents evidencing the instrument are exempt from secs. 22-6-5, 29-2-5, and 29-2-6, ACLA 1949, but only to the extent that those sections are inconsistent with the method provided in this section for the giving of constructive notice of a lien or encumbrance upon a registered vehicle.

AMENDMENT

Offered in the HOUSE BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 201

Page 2, line 18: Add:

(c) In this section "agency" does not include an individual who occasionally provides the services set out in (a) of this section.

AMENDMENT

Offered in the HOUSE BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 201

Page 2, Line 18:

Add:

(c) In this section "agency" means

(1) an establishment, the primary purpose of which is to provide the services set out in (a) of this section; or

(2) an establishment required to be licensed under secs. 20 or 90 of this chapter.

A M E N D M E N T

Offered in the HOUSE By THE JUDICIARY COMMITTEE

To: _____ HOUSE Bill No. 230

_____ SENATE Bill No. _____

AMENDMENT: Page _____ Line _____

Page 1, line 14: Delete "90 days" and substitute "one year"

Page 2, lines 4 - 8: Delete the sentence "An acting district ... United States." and substitute:

"An acting district judge shall be a citizen of the United States and of the state, at least 21 years of age, but need not be licensed to practice law in any one of the United States and need not have established Alaska residence before his appointment."

MEMORANDUM March 6, 1967

SUBJECT: HB 117 and HB 229

TO: House Judiciary Committee
Tom Fink, Chairman

Re HB 117: The question was whether, as the result of enacting the bill, an out-of-state encumbrance on a motor vehicle would be without validity (as against a good faith purchaser) in Alaska unless it is filed here or is reflected on the title or registration certificate. When read in conjunction with AS 45.05.736(a)(4) and AS 28.10.470 - 28.10.480 and 28.10.510, that would appear to be the result. (Those sections require filing here and provide that it is constructive notice to subsequent purchasers and encumbrancers.)

However, this result raises the question of "full faith and credit" under the U. S. Constitution, in that it would deny a right to an individual when that right has been perfected under the laws of another state. Broderick v. Rosner, 294 U.S. 629 (1935), presented a situation in which New York law established certain liability of bank stockholders and New Jersey law specifically prohibited enforcement of that liability. The decision of the New Jersey court upheld its own statute, but the U. S. Supreme Court reversed the decision, stressing the contractual nature of the right, and saying, ". . . the full faith and credit clause does not require the enforcement of every right which has ripened into a judgment of another state or has been conferred by its statutes . . . But the room left for the play of conflicting policies is a narrow one . . . [A state] may not, under the guise of merely affecting the remedy, deny the enforcement of claims otherwise within the protection of the full faith and credit clause, when its courts have general jurisdiction of the subject-matter and the parties."

The practical effect of HB 117 (if every state had similar legislation), seeking to protect local good faith purchasers, would be to require out-of-state creditors (encumbrancers) in states where the encumbrance is not reflected on the title to file their encumbrance in all 49 other states, since they could not be sure where a defaulting debtor would run.

AS 45.05.694(d) provides for the situation when the certificate of title does reflect the encumbrance, which poses no problem here.

There appears to be a substantial question of the constitutionality of HB 117, but further research and time would be required to give a more definite answer.

Re HB 229: The first question was whether lines 27 - 28, page 1 of this bill, conflict with HB 158. If it weren't for the repealer in sec. 7 of HB 158 there would be a substantive conflict between the two bills.

The second question was whether the grant of jurisdiction over actions of an equitable nature to the district court would give that court jurisdiction over divorce cases. Since there would be a general grant of equity jurisdiction, no reason appears why this wouldn't be true. Nothing provides for exclusive jurisdiction over divorce cases in the superior court, and, under AS 22.15.030(b), "insofar as the civil jurisdiction of the district magistrate courts and the superior court is the same, such jurisdiction is concurrent."

Sincerely,

John M. Elliott
Acting Executive Director

By
Arthur H. Peterson
Legislative Counsel

MEMORANDUM March 7, 1967

SUBJECT: HB 175 and HB 105

TO: House Judiciary Committee
Tom Fink, Chairman

Re HB 175: The question was whether the citations in lines 14 to 16 are correct. It appears that they are. There is some confusion, however, in that AS 28.10.530, which is specifically included, refers to AS 28.10.510, which is specifically excluded. Two suggestions: (1) change the wording in AS 28.10.530 to simply refer to "filing as provided in secs. 480 and 490 of this chapter;" and (2) delete the last sentence of AS 23.20.200(c) (lines 15 to 16 of the bill), as being unnecessary.

Re HB 105: The question was in what cases can the court add to the judgment interest for the time prior to the date the judgment is rendered. The only general provision dealing with interest on judgments is AS 09.30.070 (the one being amended by this bill), and the only court rule is Civ. R. 78(e) -- neither of which speak to the question of cases appropriate for the award of interest, other than limiting interest to money judgments. Superior Court Judge Thomas B. Stewart says he knows of no general law or rule or practice on this point, but warns that it is possible that the statutes contain some buried provision applying to a certain cause of action and requiring or prohibiting interest. Although the amount of the potential award may be more certain in many contract cases than in most tort cases, present law appears to contain no criteria for determining which cases would be appropriate for application of the amendment of AS 09.30.070 as proposed in HB 105.

Arthur H. Peterson
Legislative Counsel

AHP:ee

MEMORANDUM March 13, 1967

SUBJECT: Committee bill request re the Supreme Court's recently promulgated Rules of Juvenile Procedure

TO: House Judiciary Committee
Tom Fink, Chairman

RULE 26 of the RULES OF JUVENILE PROCEDURE:

> The name or picture of a juvenile under the jurisdiction of the juvenile court shall not be made available to the public unless authorized by court order accompanied by a written statement reciting the circumstances which support such authorization.

AS 47.10.090(b):

> The name or picture of a minor under the jurisdiction of the court may not be made public by a newspaper, radio, or television station in connection with the minor's status as a delinquent or dependent child, except as authorized by order of the court. A person who violates this provision is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500 or by imprisonment for not more than one year, or by both.

According to the March 9 Juneau Alaska Empire, Rep. Ted Stevens, in criticising the rule, said "under the law, the minor first must be established as a delinquent child or a ward of the court." That appears to be incorrect. Although the statute contains the clause "in connection with the minor's status as a delinquent or dependent child," there is no requirement that there be a finding that the child is delinquent or dependent before the "name-or-picture" prohibition applies. Perhaps Mr. Stevens was misquoted. (AS 47.10.080 provides for the determination of delinquency or dependency, and in (f) states that a minor found to be delinquent or dependent is a "ward of the court.")

The same source quotes Mr. Stevens as saying "It [the Supreme Court] also overlooked the statute whereby a minor can be prosecuted for a traffic offense in the same manner as an adult." (AS 47.10.010(b) contains a general provision on this point; AS 28.30.010(d) applies only to driving a vehicle without the owner's consent.) In that under present law the District Court has jurisdiction over juveniles (but cf. HB 158) and traffic offenses there may be a conflict as Mr. Stevens implies. However, the new rule does apply only to juveniles "under the jurisdiction of the juvenile court"; it is not a general provision; and when the District Court considers a juvenile case (not a traffic case) it announces that it is now sitting as a juvenile court. So there is really no conflict.

The Empire also cites Mr. Stevens as saying that it was the legislature's intention to protect the delinquent child, but not necessarily the wayward child, where some publicity can serve as a deterrent to others. Neither the House nor Senate Journals for 1957 (when AS 47.10.090(b) [1957 SB 86] was enacted) contain any indication of the legislative intent on this point; existing statutes do not indicate that the new court rule is contrary to the legislative intent but only indicate that the intent was to protect juveniles - whether delinquent or dependent or "wayward" - from the stigma resulting from unnecessary publicity; and the statutes do not contain the "wayward" versus "delinquent" distinction. (A hasty scan discloses that "wayward" only appears in AS 47.10.010(a)(2).)

There are two basic differences between the new court rule and AS 47.10.090(b): (1) The rule requires that a written statement supporting the authorization accompany the court order while the statute only provides for the court order; and (2) the statute contains the qualifying phrase "in connection with the minor's status as a delinquent or dependent child," while the court rule refers to the "jurisdiction of the juvenile court". In regard to this second point, the result of both would seem to be pretty much the same. Only this first point establishes a bit more protection for the juveniles by requiring the statement of justification. Is this what the bill requested by your committee (via Mr. Tillion) would seek to amend?

An additional difference between the statute and the rule is that the former specifies "made public by a newspaper, radio, or television station" while the latter simply says "made available to the public." Again, the result seems to be the same, and certainly this difference in language is no evidence of strongly conflicting "intents".

Arthur H. Peterson
Legislative Counsel

MEMORANDUM March 16, 1967

SUBJECT: HB 247 and proposed CS for HB 247 as they relate to AS 09.55.210 -- a sectional analysis.

TO: House Judiciary Committee
Tom Fink, Chairman

1. The basic change proposed by Section 1 is the removal of the consideration of "fault" (for the divorce) in determining custody of a child -- a factor not necessarily related to a party's ability to care for and raise the child, and certainly quite irrelevant when considering the bases for divorce under Alaska law. In addition, the original bill sets up an arbitrary age limit, after which no automatic preference (in awarding child custody) may be given to the mother. The CS removes the arbitrary age limit and introduces the concepts of "tender years" and "age to require education . . . ," both of which appear unworkable although the end sought is eminently sound. The CS also introduces the wishes of the child as a factor to be considered -- a situation which may already exist under case law, but which a statute would make definite.

It was my observation while studying law in Michigan that the courts there tended to give automatic preference to the mother even when good reasons for not doing so were present, and I was under the impression that this problem existed in other states, too. One of the staff attorneys who studied in Oregon says the malady is rampant there. It appears that some observers of the critics of this tendency fear that change would be a challenge to the sanctity of "Motherhood".

Section 1 of the original bill needs a technical change and Section 1 of the CS needs substantial rewording.

2. Section 2 continues the elimination of the concept of "fault" in the determination of custody and support money by requiring both parents to contribute to the welfare of the child. (Present law says the court may provide for the payment "from the party in fault.") The CS changes the original bill by substituting "by either or both parties" for "by both parties equally," and adds a provision for the establishment for a trust fund for the future education of the child; when the spouse having custody remarries the payments from the other spouse would go into this fund. (This should probably be in a separate subsection.)

3. Section 3 again removes the "fault" concept and allows for alimony only when one party (not necessarily the wife) is physically incapable of earning a livelihood. The CS broadens this a bit by allowing alimony when the need is manifest and one of the parties is incapable of earning a living by reason of age or physical condition. The CS also provides for the termination of alimony. This is not mentioned in the existing statute and I'm not sure how much it changes case law on the point. Daily care of a child, preventing employment, presents another problem that should be provided for in this section.

   I believe the courts in general -- I'm not yet sufficiently familiar with Alaskan courts -- are tending toward a more rational approach to alimony; but again they must fight the emotional cries of "Motherhood."

   The section should be reworded.

4. Section 4 limits the division of property to that acquired during coverture. The CS removes the phrase "without regard as to which of the parties is the owner of the property" which appears in existing law and the original bill. Property held jointly or separately is included. A pencilled note at the bottom of page 2 of the CS says "specifically excluding separate property acquired by inheritance or gift." If that's what was intended, I don't think that's what was accomplished.

5. Section 5 of the CS is self-explanatory. It extends to both parties the courtesy formerly extended only to the wife.

Arthur H. Peterson
Legislative Counsel

3/20/67

Memorandum

Subject: House Bill No. 221

To: House Judiciary Committee
Tom Fink, Chairman

The question was whether the proposed amendment to AS 04.15.020(e) would conflict with existing law because of the "shall" in line 18 of the bill. As you noticed, the second condition of the exception (lines 22 to 24) appears to avoid the conflict by requiring compliance with other provisions on the point.

AS 04.10.440 requires the consent of a majority of the persons over 21 residing within a one mile radius of the proposed location of a liquor outlet before a license may be issued. So if HB 221 becomes law the board may issue a license only if the borough assembly and the residents within one mile agree.

Your suggestion to delete the rest of the sentence after "municipality" in line 15 and define "school" to include "college and university", of course, would avoid the question altogether.

Arthur H. Peterson
Legislative Counsel