

SJR

68



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 13, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SJR 68 - Proposing an amendment to the Constitution of the State of Alaska providing that a legislator who is convicted of a felony forfeits legislative office.

Amendment to SB 898 - "An Act relating to the insanity defense; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, and Anderson. Senators Bennett and Parr were absent.

002 - Call to order.

005 - Senator Rodey - The issue before us today is insanity. Let me address Mr. Stern's remarks, because of some recent events there has been a concern about the insanity plea. The House has talked about the issue. Mr. Stern and I have talked at some length about changes in the issue. I have talked previously to the committee about it. I have held a bill on the floor we can use that as a vehicle and it will be the most efficient way of handling it and rather than do it on an individual level, I wanted the committee to do because I value the advice of council of committee and it is appropriately a committee matter. The question is whether or not to change the present law regarding the plea of insanity and as you know the definition of insanity is rather broad in the existing law. In addition, the plea is raised only by the defendant and the prosecution must prove that the defendant is not insane. It's a double disadvantage. The proposal that will be discussed today is whether to do away with the insanity plea completely and have a question of only innocence or guilt of the crime and then have a hearing after the insanity plea rather than after the trial to determine whether the individual is insane or sane, but require the same amount of imprisonment whether it be in an institution or prison. After

that in order to retain a limited portion of the insanity plea which would be the narrowest possible device under the law.

023 - Senator Ray - Do you understand what he is saying?

025 - Senator Rodey - Did I lose everybody? In that case, I'll let Mr. Stern spin the rubick's cube.

027 - Senator Anderson - One word of caution for the witness here so that he doesn't make the same mistake, that he speak in ...

029 - Senator Rodey - You have the floor Mr. Stern.

030 - Mr. Stern - Thank you.

031 - Senator Rodey - Let me pose one question first. Is an insanity plea required by constitution law?

032 - Mr. Stern - The answer to that question is that we think it is. The question is how far can you go in terms of limiting the plea and that is what we attempt to do in this legislation. Let me begin by saying that

034 - Senator Ray - Mr. Chairman.. You're saying that in your judgement.

036 - Mr. Stern - Yes, that is the issue. Governor Hammond, tomorrow, should be introducing legislation in the Senate which will substantially restrict the insanity defense in Alaska. I don't have that bill in final form for you at all at this time, but it should be ready later on this afternoon, maybe in a couple of hours. This committee has already taken, what we consider, substantial action on the subject by changing the burden of proof on the insanity defense. As Senator Rodey stated, currently, once a defendant claims the defense of insanity and raises a reasonable doubt as to whether he was sane or not, just merely raising a reasonable doubt is sufficient to justify a finding of not guilty by reason of insanity. What happens to that person is that the person is found not guilty by reason of insanity, committed to the department,

047 - Senator Ray - Do we have a \_\_\_\_\_?

048 - Senator Rodey - No we do not.

049 - Senator Ray - What is this kind of a lecture, symposium, or what?

050 - Senator Rodey - No we will have the Governor's bill tomorrow, we have the bill on the floor that can be amended. It is a House bill and the reason we are here is to get sense of the committee on this topic.

052 - Senator Ray - Well, we don't need to listen to him. Why don't we just ask him questions rather than for him to give a speech. That would be easier.

054 - Senator Rodey - Fine, if that's preferable.

055 - Senator Ray - Is that all right with you?

056 - Mr. Stern - That's fine.

057 - Senator Rodey - You have the floor Senator Ray.

058 - Senator Ray - It is my opinion , and it's one of long standing that the insanity plea, if the man is insane then he should be put into an institute and kept there and when he becomes sane, then he should have a trial. He should serve time. Not be just dismissed because of reason of insanity.

060 - Senator Rodey - You don't mean have a trial, you mean just serve time. I raise that point because if you were committed in an insane asylum for five years and then were required to have a trial five years later, there is the stale evidence problem.

063 - Senator Ray - Well in the majority of the cases, the evidence isn't that stale, you know, the guy cut somebody up in little pieces and said gee I was crazy at the time.

067 - Senator Rodey - I think the later trial date raises significant problems for the prosecution. Mr. Stern.

068 - Mr. Stern - Well, if the defendant had a mental condition that he didn't understand the nature of the trial, we couldn't try him anyway. We would have to wait until the person recovered, if he ever did. So the kind of person you're talking about, Senator, we can't try him today until he understands what is occurring at the trial.

071 - Senator Ray - I understand that, that's why the trial would have to come after he is released and declared sane. \_\_\_\_\_ take my chance at that time that the evidence would still be, if it was a violence crime, there would still be enough evidence left to make a legitimate judgement as to whether he should serve time or not.

077 - Mr. Stern - We are not going to propose that that be changed, Senator. If the person is incompetent to stand trial under the Governor's bill, that will not be changed, he won't stand trial until he becomes competent. The question is what happens once the person is competent to stand trial.

080 - Senator Ray - I think. Could we just have a dialogue here a little bit?

081 - Senator Rodey - Sure.

082 - Senator Ray - I think that alot of it, at least I don't appreciate, is when a person, like the occasion that happened in Anchorage, just to use that as a reference point, but it has happened many, many times over, when a person is sane enough so that he can be let out unescorted, then he is sane enough to stand trial for something.

083 - For the record, Senator Parr entered the meeting.

086 - Mr. Stern - We don't take issue with that, infact what happens in a situation where the person basically understood what he was doing when he committed the act, we, under the bill that will be \_\_\_\_\_ tomorrow, the person will be found guilty of the charge and sentenced like any other criminal defendant. He will receive mental treatment while he is in the custody of the Commissioner of Health and Social Services if the problem is cured, at that point, he will serve the rest of the sentence in prison.

092 - Senator Ray - But then if the sentence is 10 years and he spends 9 years in the mental institute that means he goes 1 year into prison?

096 - Mr. Stern - The answer to your question is yes, if it is a 10 year sentence, but there is a distinction between what happens under existing law and what happens under the bill we will be proposing. Under existing law, that person is never sentenced. He is found not guilty by reason of insanity. Under this bill, a person who commits, say 1st degree murder, it is a mandatory minimum sentence of 20 years. What will happen to that person, say we have a sentence imposed of 20 years. He will be sentenced, found guilty and that person will receive treatment while in prison or say at API. Once the illness is cured, if it is cured, that person will be required to serve the rest of his sentence like any other offender.

107 - Senator Ray - I could see some people copping out insanity plea and doing soft time in API. You get led around by the hand and taught how to do bead work and all that good stuff.

111 - Mr. Stern - It is difficult for me to answer that concern.

112 - Senator Rodey - Let me see if I can answer that in saying that the way the laws are presently, there is certainly every reason for a defendant to plead insanity now and it is a fairly common plea. I doubt that you're are really going to see that change appreciably. Would you agree with that statement Mr. Stern?

115 - Mr. Stern - I think if anything, because of the consequences of raising the plea under this bill, you are probably going to see the number of cases where it is raised go down significantly and certainly the number of cases where it could be established. We estimate that it would only apply to 10 percent.

119 - Senator Ray - That comes to the point that I;m talking about is that after.. if he spends 10 years in a mental institute and he finally comes out of it, he should start serving his prison term and if its 10 years, it's 10 years on top of it because his incarceration in a mental institute does not compare to incarceration in a penal institute. He is being kept in there for his care and for his own care and that's the way it is.

126 - Mr. Stern - I understand precisely the point you're getting at. I don't think that under the approach of sentencing the person. In other words this person is found guilty and sentenced. I don't think we could do that consistent with do process. Constitutionally, I don't think we

can do it. The court would view forced confinement in a mental institution pursuant to a finding of guilty the same way that it would view...

131 - Senator Ray - I'm not so sure because a man isn't in his right mind and he isn't conscious incarcerated or being.... if he is insane he doesn't know the difference. He doesn't know the difference between right and wrong, he doesn't know the difference whether he is in jail or not. When he becomes sane and he knows he is in jail, then he can start serving his term.

136 - Senato. Rodey - There is another problem to it is that you would never get anyone into prison because if a person became sane enough to go to prison, he would become sane enough to release he didn't want to go to prison and would remain in the institution.

138 - Senator Ray - So? Then the guy has the choice. If he is going to go for a possible 7 years for murder or manslaughter or whether he is going to go into a bug house for the rest of his life or until he admits that he is sane. If he is playing a game he will take that into consideration too, I'm sure. In other words, you give him no loophole, is what I'm getting at. But, with this one he would be doing soft time for 7 years and then all of a sudden he's okay, let's see one more year, okay I'll do that hard time out at Lemon Creek.

148 - Mr. Stern - Senator, there is no requirement under the bill that the person be transferred to that type of institution. The bill anticipates that in some of these cases, the treatment will occur in the prison.

152 - Senator Ray - You mean there will be a psycho ward within the prison?

153 - Mr. Stern - I don't know if I would care to refer to it as that, but I think we are getting at the same concept.

154 - Senator Rodey - He said yes.

155 - Senator Ray - Then I have no objection. If you are going to put them in prison and you have a psycho ward in there, and we will leave them in there, that's fine.

156 - Mr. Stern - Well it is certainly allowed under the bill and that is what we are anticipating the kind of cases.

157 - Senator Rodey - Could you explain the constitutional requirement for some insanity plea?

159 - Mr. Stern - Okay. The basic constitutional requirement is this: in order to be guilty of a crime, a person has to act with a criminal intent and a best example of a case where it probably would be unconstitutional to eliminate insanity defense is the situation where I believe I am squeezing a lemon, this is the example which is usually given in the literature, but it turns out that I am squeezing the neck

of someone, I am killing someone, I am having a hallucination that I'm am killing a ghost, but I am really killing a human being. Under those situations, the crime of murder requires that person intended to kill. If we were to say that person was criminally responsible for the act of intentionally squeezing a watermelon or shooting at a ghost, we think that would be unconstitutional to hold that person responsible, but let me just say that that is the most limited situation where the insanity defense would apply and that is why we believe that our redefinition of the insanity defense will probably limit it to no more than '9 percent of the cases where it is presently raised. The only time the defense could be successfully raised is if the person did not understand the nature and quality of his conduct.

177 - Senator Ray - How about temporary insanity?

178 - Mr. Stern - If it was the type of insanity that resulted in the person not knowing the nature and quality of conduct, it would be a defense, but let me point out that existing law simply allows a person...

181 - Senator Ray - The guy says he has no remembrance of the crime.

181 - Mr. Stern - That would not be a defense.

182 - Senator Ray - I was temporarily insane and I don't remember choking this watermelon that turned out to be the neck of somebody?

184 - Senator Anderson - Let me ask you a question, Mr. Chairman. Is it your intent, if we can come to some kind of consensus here, to amend the bill which you were referring to earlier?

186 - Senator Rodey - It is indeed. It would be the most efficient way of dealing with the matter. The topic is the important thing. That will take less committee time and since we did have a little time today, I wanted to delve in the topic, because every member here is familiar with it from the work we have done previously and from our discussions.

192 - Senator Ray - I think, Mr. Chairman, that at least in my thoughts, and I think that it probably has a similar basis in other peoples minds, that too many people get off on an insanity plea and they are not really insane and then too many people are let out of institutions that are insane and they claim that they're not, but they really are. How do you like that?

199 - Senator Rodey - I'm inclined to agree with you. The first duty of society is to protect the public and that is the primary question that we are raising here is how can the public be protected.

202 - Senator Ray - They can't be protected because, I have the situation now, I just got a call in my office over the lunch hour, there is a person in this town that was picked up in one of the local establishments carrying a gun. a woman carrying a gun, and making threats. They took her and put her in jail for four or five days and now she's out and still making the same threats. Drawing pictures of

blood dripping off of knives, somebody's head rolling off and all of that stuff. Under our laws and under each individuals freedom there is nothing that you can do to that person until they finally do kill someone or makes an attack. Can they?

213 - Mr. Stern - As far as I know, we had charged her, if this is the same case.

214 - Senator Ray - Well she is out again.

215 - Mr. Stern - She's out on bail?

215 - Senator Ray - She's making the same threats. This is serious, with picture drawings now with the knives and blood dripping off and everything. Now what is going to happen?

219 - Mr. Stern - Well, I don't know enough about the conditions of bail in that case, but she have violated a condition of bail. It is difficult to discuss that case, it is a pending case here.

221 - Senator Ray - If she did violate the bail, I would suggest that they go and pick her up and put her back in.

223 - Senator Rodey - Perhaps this is a matter which is better discussed outside the committee..

223 - Senator Ray - I hardly ever see him.

229 - Senator Rodey - \_\_\_\_\_ constitutional requirement and you talked about \_\_\_\_\_. I think it is a close question because of course there are crimes which do not require specific intent and the statute has many of them in fact we just amended the law, at your suggestion, to allow for people recklessly endanger or do other things and I think the committee very much agreed again, the question was public safety. The fact that somebody is killed or hurt, it is important whether they negligently allowed it to happen or they intentionally did it. I think the same arguement can be raised on a constitutional requirement, that a person actually had the intent to commit a murder. The fact is if they do commit a murder regardless of their mental state, society has a strong interest in preventing that kind of conduct in at least hopefully preventing it, but if nothing else is reasoning that individual so that that can't happen again so that the lemon can't be squeezed a second time.

243 - Mr. Stern - Actually, the way I used the word intent, I would include the four types of mental states in the code, so the lemon squeezer may not even have acted recklessly because that requires that he be aware of a substantial and unjustifiable risk. He may not have been. I want to make this clear, this isn't something that we started working on just because of the incident in Anchorage, we had given substantial thought to this approach when we put in 535, restricting defense, but we had attempted previously to have that changed, we weren't too successful so we didn't think we could put in this, but we have discussed this with people in mental health fields, psychiatrists,

we have discussed it with our people in Anchorage who tried these cases and I think it is pretty unanimous support of the approach. It doesn't go as far as we possibly we could try to go. I think we concluded that going that far kind of presented more problems than it was worth considering how narrowly we have defined the defense.

261 - Senator Rodey - Do you think there would be a constitutional challenge to the legislation?

262 - Mr. Stern - To this legislation?

263 - Senator Rodey - Yes.

264 - Mr. Stern - I am sure there will be. On this legislation which we are going to introduce, I am confident that we will be successful as to legislation similar to like Idaho, or Montana, it is my feeling that we would probably lose.

266 - Senator Rodey - That is where there is no defense of insanity?

267 - Mr. Stern - That is correct.

268 - Senator Rodey - Senator Parr.

268 - Senator Parr - One of the midwestern states last year had changed its law on this subject, I'm not talking about Idaho or Montana, this was back Michigan, Wisconsin, Illinois. I think it was Michigan. In their's, instead of having a verdict of not guilty for reasons of insanity, they found guilty, but insane, I'm not sure how they handled it after the verdict was in, what did they do then.

274 - Mr. Stern - That's basically, precisely what we have done in this bill. We call it guilty, but mentally ill. The only distinction between what Michigan did and what we are doing here is that it was the jury who determined whether the person was mentally ill, under our bill, that is removed as a jury question, rather the jury simply considers did the person do the act, did he have the intent. If he did do the act and did have the intent, he is found guilty. Then after the verdict comes in, there is a separate hearing prior to sentencing where the defendant argues that he is guilty, but mentally ill. We felt in terms of judicial economy that would be a lot better than presenting all of that evidence to the jury and also the possibility providing compromise verdicts. We felt it was a better approach.

287 - Senator Parr - Let me ask another question. Didn't we do that same thing in SB 100? I know that the \_\_\_\_\_ you came in as a result of that Supreme Court verdict about 1979 or 80, I forgot the name of the case, but it seems to me that what was put into SB 100 was the trials were on the facts on the murder, lets say, whatever the choice was, would be immediately followed by the hearing when they send it to court and also what there would be, it would require an affirmative

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298 - Mr. Stern - Yes. The reason being is that we redefined the defense of insanity and that is the reason.

304 - Senator Ray - I don't know. I think we are all trying to do the same thing, but by the time it gets done fooling around with the attorneys and the courts and that, it won't be anything. I hate to be pessimistic on it, but how many times have we attempted to do things and it turns up to be worse than when it starts.

311 - Senator Parr - You have to remember one thing, that is the second guarantee in the constitution, both U.S. and Alaska, is the right not to be deprived of liberty without do process of law, you have to have that, that's all there is to it. You have to give the person the right... you can't go out and yank them up and stick them in jail without going through the necessary procedures.

315 - Senator Rodey - I don't think anybody disagrees with that, however my personal thought is that being mentally ill doesn't alter that as far as I'm concerned. A mentally ill person is a danger to society, should be deprived the liberty exactly the same manner as a sane person.

320 - Senator Parr - Nobody has questioned that, the grounds are present

322 - Senator Ray - Do process means alot of things though.

323 - Mr. Stern - That isn't in the criminal area though.

323 - Senator Ray - Do process means all kinds of things. Do process means getting a criminal trial, a civil trial, a hearing on an insanity plea or anything else, as long as you get some kind of legal action that addresses whatever kind of situation. That's do process, isn't it?

328 - Mr. Stern - Well, in the area of criminal law, you have to have more do process than in the civil area, but, we will provide you with the bill and a seven page analysis of the legislation hopefully by 4:00 this afternoon.

334 - Senator Ray - Buy everybody a 357 magnum, and eliminate the courts and let lawyers defend clients at their own risk.

337 - Senator Rodey - Do you want to make that a formal motion?

338 - Senator Ray - Can they put that in law?

339 - Senator Parr - You remind me of that famous revolution. The first thing that they did when they were successful was to kill the lawyer.

343 - Senator Rodey - Are there any other questions, I will get copies of the language out to the members hopefully before they leave this evening. One other matter I wanted to take up, you might be interested in, we have one bill, that's SJR 68, proposing an amendment to the Constitution providing that legislators convicted of a felony forfeit legislative office.

349 - Senator Ray - Why do we just limit it to legislators? Why don't we limit it to, why don't we enlarge that to have Governors, Lt. Governors, judges, state employees? Why just have it legislators?

355 - Senator Rodey - You could certainly expand it to elected officials.

356 - Senator Ray - Why not?

357 - Senator Rodey - I see no reason why not.

358 - Senator Ray - We could even enlarge it up to state employees. People employed by the State. Why not? I'm tired of they just point at legislators, legislators, legislators. Lobbyists, the same thing.

364 - Senator Parr - Is it that we don't trust ourselves to make those decisions, or what?

366 - Senator Rodey - I think if there is any trust, it is lacking in the department of the public. The bill would provide for automatic expulsion upon the conviction of a felony.

368 - Senator Parr - I understand that Mr. Chairman. Exactly what is the need for it, I mean. What it sounds like we are going to do is just say that we have the right to exclude a member by expelling him on a two thirds vote. Now they are just going to make this an automatic expulsion convicted on a felon \_\_\_\_\_.

376 - Senator Rodey - It provides an automatic mechanism.

377 - Senator Parr - That is my question. Why do we need an automatic mechanism?

378 - Senator Ray - You are denying do process. You are. If you believe in do process for everybody else, this is not do process for a legislator. Do process goes through the appeal situation, the whole thing. But here you are cutting that short.

386 - Senator Anderson - You go through this kind of a process here, it can be challenged if it is adopted by the public, it can be challenged constitution because of the do process question. Legislators, if they decide among themselves to take an action, there is no other appeal. This is final. This is the final place where a decision is made. Did you get my point?

396 - Senator Rodey - Loud and clear.

397 - Senator Ray - School teachers, policemen, all of these people. Why is this the legislator all the time.

400 - Senator Rodey - Is there a member of the committee who wishes to work on the bill and bring it out? I thought that might be the consensus of the committee, but I wanted to bring this up.

413 - Adjourned at 2:35 P.M.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 14, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 863 - "An Act providing for the award of costs and attorney fees incurred by defendants acquitted of offenses and by individuals who prevail in certain state administrative proceedings; changing Rules 79 and 82, Rules of Civil Procedure; and providing for an effective date."
- HB 194 - "An Act relating to prisoner employment and correctional industries; and providing for an effective date."
- SB 861 - "An Act relating to rights of persons who report violations of law; and providing for an effective date."
- SB 175 - "An Act relating to standards of conduct for public officials and employees; establishing a State Ethics Commission; and providing for an effective date."
- SJR 68 - Proposing an amendment to the Constitution of the State of Alaska providing that a legislator who is convicted of a felony forfeits legislative office.

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:05 P.M. Committee members present were: Senators Rodey, Ray, and Parr. Senators Bennett and Anderson were absent.

002 - Call to order.

009 - Chairman Rodey brought HB 194 before the committee.

042 - Mr. Stark, Department of Law, testified in favor of HB 194.

167 - Senator Anderson entered the meeting.

385 - Senator Parr moved to add "or labor force" on Page 1, Line 28. There was no objection.

441 - Senator Ray moved that on Page 5, Line 8, "on a basis that is competitive with other sources" be added after the word "service".

There was no objection. He also objected to the commission having all discretion in pay plans. He wanted some limit on the amount.

455 - Chairman Rodey directed the staff to prepare language to meet Senator Rays concerns. This language reads: On page 6, Line 4, A wage established under the pay plan may not exceed 50 percent of the minimum wage established under AS 23.10.065.

460 - HB 194 was returned to file for the language to be drafted.

465 - Chairman Rodey brought SB 861 before the committee.

478 - Jack Chenoweth, Ombudsman, testified stating that this bill should be included in title 29.

695 - Senator Fisher testified in favor of his bill.

765 - SB 861 returned to file.

780 - Chairman Rodey adjourned due to the joint session.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

APRIL 26, 1981

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SJR 68 - Proposing an amendment to the Constitution of the State of Alaska providing that a legislator who is convicted of a felony forfeits legislative office.
- HB 678 - "An Act relating to membership in electric and telephone cooperatives."
- HB 849 - "An Act relating to electric and telephone cooperatives."
- HB 339 - "An Act relating to the judicial review of administrative regulations."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:05 P.M. Committee members present were: Senators Rodey, Parr, and Anderson. Senators Bennett and Ray were absent.

003 - Call to order.

010 - Chairman Rodey brought HB 678 before the committee.

025 - Mr. Hutchins testified in support of the bill.

135 - *SENATOR RAY ENTERED THE ROOM*

147 - After brief discussion, Chairman Rodey laid HB 678 on the table.

157 - Chairman Rodey next brought HB 849 before the committee.

160 - Mr. Hutchins again testified in support of this legislation and offered the following amendments: On page 2, Line 5, add "or special" between "regular" and "meeting". On Page 2, Line 24, add "and for a valid corporate purpose" between "time" and ",". Mr. Hutchins also suggested adding a new subparagraph (3) under Sec. 10.25.175., Paragraph (c), to protect the attorney, client privilege.

166 - Senator Ray offered the following amendments: On Page 2, Line 10 add "formal" between the words "No" and "action". On Page 2, Line 11,

169 - Senator Parr offered the following amendment: On Page 2, Line 25 delete [except the names, addresses and accounts of the members].

771 - After discussion of the amendments, Chairman Rodey laid HB 849 on the table and directed staff to prepare a committee substitute.

779 - The next item on the calendar was HB 339.

780 - Representative Metcalfe testifies, giving the intent of his bill.

#### SIDE TWO

989 - Mr. Art Peterson, Assistant Attorney General, testified against HB 339, stating that this legislation would only give more power to the court system instead of the Legislature. Mr. Peterson offered a committee substitute for committee consideration.

244 - Chairman directed Senator Anderson to work as a subcommittee with Mr. Bruce to draft a committee substitute.

340 - Phil Holsforth, testified in favor of HB 339.

410 - Chairman Rodey put HB 339 in subcommittee.

412 - Next Chairman Podey brought SJR 68 before committee.

518 - After brief discussion, Chairman Rodey laid SJR 68 on the table.

520 - The committee directed Chairman Rodey to return SB 801 and SB 175 to the State Affairs Committee for further work.

525 - Chairman Rodey adjourned the meeting at 2:45 P.M.

Imprisonment  
for Debt

SECTION 17. There shall be no imprisonment for debt. This section does not prohibit civil arrest of absconding debtors.

Eminent  
Domain

SECTION 18. Private property shall not be taken or damaged for public use without just compensation.

Right to  
Bear Arms

SECTION 19. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Quartering  
Soldiers

SECTION 20. No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

Construction

SECTION 21. The enumeration of rights in this constitution shall not impair or deny others retained by the people.

Right of  
Privacy

SECTION 22. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

(The addition of this section, as an amendment to Article I, was approved by the voters of the state August 22, 1972 and became effective October 14, 1972.)

## ARTICLE II

### THE LEGISLATURE

Legislative  
Power;  
Membership

SECTION 1. The legislative power of the State is vested in a legislature consisting of a senate with a membership of twenty and a house of representatives with a membership of forty.

Members;  
Qualifications

SECTION 2. A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district

Election  
and Terms

from which elected for at least one year immediately preceding his filing for office. He shall be at least twenty-five years of age and shall have resided in the district for at least twenty-one years.

SECTION 3. Legislators shall be elected at general elections. Their terms shall begin on the first Monday of the January following the general election, unless otherwise provided by law. The terms of representatives shall be two years, and the terms of senators shall be four years. One-half of the senators shall be elected every two years.

(Exercising its authority under this section, the legislature provided that terms begin on the second Monday of the January following a general election, if they begin on the third Monday in January.)

Vacancies

SECTION 4. A vacancy in the legislature shall be filled for the unexpired term and, if no provision is made, the governor shall fill the vacancy by appointment.

Disqualifications

SECTION 5. No legislator shall hold any office or position of profit under the State. During the term of office for one year thereafter, no legislator shall be nominated, elected, or appointed to any position of profit which has a salary or emoluments of more than \$10,000 per year, increased, while he was a member of the legislature. This shall not prevent any person from serving as an office of governor, secretary of state, or member of Congress. This section shall not apply to a person elected by or election to a constitutional office.

(The Sixth Legislature's Senate Journal, in listing the name of the secretary of state, inadvertently omitted the name of the secretary of state in sixteen sections of the Alaska Constitution, effective August 25, 1970, inadvertently omitted the name of the secretary of state.)

Immunities

SECTION 6. Legislators may not be sued or answer before any other tribunal for any act made in the exercise of their official duties while the legislature is in session. No

from which elected for at least one year, immediately preceding his filing for office. A senator shall be at least twenty-five years of age and a representative at least twenty-one years of age.

**Election  
and Terms**

**SECTION 3.** Legislators shall be elected at general elections. Their terms begin on the fourth Monday of the January following election unless otherwise provided by law. The term of representatives shall be two years, and the term of senators, four years. One-half of the senators shall be elected every two years.

(Exercising its authority under this section, the legislature has provided that terms begin on the second Monday in January, except in years immediately following a gubernatorial election when they begin on the third Monday in January; see AS 24.05.080.)

**Vacancies**

**SECTION 4.** A vacancy in the legislature shall be filled for the unexpired term as provided by law. If no provision is made, the governor shall fill the vacancy by appointment.

**Disqualifications**

**SECTION 5.** No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

(The Sixth Legislature's Senate Joint Resolution No. 2 "changing the name of the secretary of state to lieutenant governor" in sixteen sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.)

**Immunities**

**SECTION 6.** Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the legislature is in session. Members attending, go-

ing to, or returning from legislative sessions are not subject to civil process and are privileged from arrest except for felony or breach of the peace.

#### Salary and Expenses

SECTION 7. Legislators shall receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions. Presiding officers may receive additional compensation.

#### Regular Sessions

SECTION 8. The legislature shall convene each year on the fourth Monday in January, but the month and day may be changed by law.

(Exercising its authority under this section, the legislature has provided that it shall convene on the second Monday in January, except in years immediately following a gubernatorial election when it shall convene on the third Monday in January; see AS 24.05.090.)

#### Special Sessions

SECTION 9. Special sessions may be called by the governor or by vote of two-thirds of the legislators. The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session. Special sessions are limited to thirty days.

(The amendment of this section was approved by the voters of the state November 2, 1976 and became effective December 23, 1976. This amendment deleted "or" preceding "to subjects" in the third sentence and added "and the reconsideration of bills vetoed by him after adjournment of the last regular session.")

#### Adjournment

SECTION 10. Neither house may adjourn or recess for longer than three days unless the other concurs. If the two houses cannot agree on the time of adjournment and either house certifies the disagreement to the governor, he may adjourn the legislature.

#### Interim Committees

SECTION 11. There shall be a legislative council, and the legislature may establish other interim committees. The council and other interim committees may meet between legislative sessions.

They may perform duties as provided by the legislature. They may receive an allowance for expenses incurred in the performance of their duties.

#### Rules

SECTION 12. The house shall adopt uniform rules of procedure. The house may choose its officers and judges of the election and quorum and may expel a member by a vote of two-thirds of its membership. It may keep a journal of its proceedings. It may do business, but a smaller quorum may be required from day to day and may expel absent members. The legislature may regulate the lobbying of its members.

#### Form of Bills

SECTION 13. Every bill subject to appropriation shall be subject unless it is an appropriating, revising, or rearranging bill. Bills for appropriations shall be subject to appropriation. The subject of each bill shall be stated in the title. The enacting clause shall be "Be it enacted by the Legislature of the State of Alaska."

#### Passage of Bills

SECTION 14. The legislative procedure for enactment of a bill shall be as follows: (a) A bill may become law unless it has been passed in each house on three separate readings. (b) Any bill may be advanced to a fourth reading on the same day by a vote of two-thirds of the house. (c) A bill may become law without an affirmative vote of a majority of the membership of each house if the majority of the members of each house concur on final passage shall be so stated in the title.

#### Veto

SECTION 15. The governor may veto any bill passed by the legislature. He may reduce items in appropriations bills.

They may perform duties and employ personnel as provided by the legislature. Their members may receive an allowance for expenses while performing their duties.

Rules

SECTION 12. The houses of each legislature shall adopt uniform rules of procedure. Each house may choose its officers and employees. Each is the judge of the election and qualifications of its members and may expel a member with the concurrence of two-thirds of its members. Each shall keep a journal of its proceedings. A majority of the membership of each house constitutes a quorum to do business, but a smaller number may adjourn from day to day and may compel attendance of absent members. The legislature shall regulate lobbying.

Form of Bills

SECTION 13. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

Passage of Bills

SECTION 14. The legislature shall establish the procedure for enactment of bills into law. No bill may become law unless it has passed three readings in each house on three separate days, except that any bill may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it. No bill may become law without an affirmative vote of a majority of the membership of each house. The yeas and nays on final passage shall be entered in the journal.

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Action Upon  
Veto

any vetoed bill, with a statement of his objections, to the house of origin.

SECTION 16. Upon receipt of a veto message during a regular session of the legislature, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill or item. Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature. Other vetoed bills become law by affirmative vote of two-thirds of the membership of the legislature. Bills vetoed after adjournment of the first regular session of the legislature shall be reconsidered by the legislature sitting as one body no later than the fifth day of the next regular or special session of that legislature. Bills vetoed after adjournment of the second regular session shall be reconsidered by the legislature sitting as one body no later than the fifth day of a special session of that legislature, if one is called. The vote on reconsideration of a vetoed bill shall be entered on the journals of both houses.

(The amendment of this section was approved by the voters of the state November 2, 1976 and became effective December 23, 1976. This amendment inserted "during a regular session of the legislature" in the first sentence and added the present fourth and fifth sentences.)

Bills Not  
Signed

SECTION 17. A bill becomes law if, while the legislature is in session, the governor neither signs nor vetoes it within fifteen days, Sundays excepted, after its delivery to him. If the legislature is not in session and the governor neither signs nor vetoes a bill within twenty days, Sundays excepted, after its delivery to him, the bill becomes law.

Effective  
Date

SECTION 18. Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two-thirds of the membership of each house, provide for another effective date.

Local or  
Special Acts

SECTION 19. The legislature or special act or general act. Whether a general act shall be subject to judicial acts necessitating appropriate division may not become effective by a majority of the qualified in the subdivision affected.

Impeachment

SECTION 20. All civil of subject to impeachment by impeachment shall originate in be approved by a two-thirds. The motion for impeachment basis for the proceeding. shall be conducted by the he A supreme court justice de shall preside at the trial. Cor of the members of the hous ment of impeachment. The tend beyond removal from prevent proceedings in the related charges.

Suits Against  
the State

SECTION 21. The legisla cedures for suits against the

### ARTICLE III

#### THE EXECUTIVE

Executive  
Power

SECTION 1. The executi vested in the governor.

Governor:  
Qualifications

SECTION 2. The governo years of age and a qualified shall have been a resident years immediately precedi and he shall have been a States for at least seven yea

Local or  
Special Acts

SECTION 19. The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

Impeachment

SECTION 20. All civil officers of the State are subject to impeachment by the legislature. Impeachment shall originate in the senate and must be approved by a two-thirds vote of its members. The motion for impeachment shall list fully the basis for the proceeding. Trial on impeachment shall be conducted by the house of representatives. A supreme court justice designated by the court shall preside at the trial. Concurrence of two-thirds of the members of the house is required for a judgment of impeachment. The judgment may not extend beyond removal from office, but shall not prevent proceedings in the courts on the same or related charges.

Suits Against  
the State

SECTION 21. The legislature shall establish procedures for suits against the State.

### ARTICLE III

#### THE EXECUTIVE

Executive  
Power

SECTION 1. The executive power of the State is vested in the governor.

Governor:  
Qualifications

SECTION 2. The governor shall be at least thirty years of age and a qualified voter of the State. He shall have been a resident of Alaska at least seven years immediately preceding his filing for office and he shall have been a citizen of the United States for at least seven years.