

H B

8 2

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723



WHILE IN JUNEAU
Box V
Juneau, Alaska 99811
465-4525
465-4833

HOUSE OF REPRESENTATIVES

District 22

North Slope
Borough

Anaktuvuk Pass
Atkasuk
Barrow
Kaktovik
Nulqsut
Point Hope
Point Lay
Wainwright

Northwest Arctic
Borough

Ambler
Buckland
Deering
Kiana
Kivalina
Kobuk
Kolzebue
Noatak
Noorvik
Selawik
Shungnak

MEMORANDUM

TO: Representative Dave Donley, Chairman
House Judiciary Committee

FROM: Representative Eileen P. MacLean

Rep. E.P. MacLean

DATE: February 4, 1991

SUBJ: Scheduling House Bill 82

This is to request a hearing in the Judiciary Committee for House Bill 82, "an act exempting members of the clergy from service as jurors".

In rural areas, members of the clergy are often called on to provide services for the Health Department, Public Safety office, Public Health Service Hospital, Division of Family and Youth Services, and other organizations. Providing pastoral counseling and chaplaincy services to people who are, or will be, before the court system could present problems maintaining an unbiased viewpoint while serving on a jury.

John Gaguine, of the Legal Services Division, has suggested that language exempting only the clergy may raise problems of equal protection. Prior to 1981, members of the clergy as well as judicial officers, civil officers, attorneys, teachers, physicians, and dentists were exempt.

Letters from the Uteagvik Presbyterian Church and from Superior Court Judge Michael Jeffery are included in the back-up.

page 2

I respectfully request the Judiciary Committee review this request and A.S. 09.20.030 to see if there is some way to fairly address the concerns of the of the clergy.

If you have any additional questions, please contact Rena Bukovich of my staff at 465-4525.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 5, 1991

SUBJECT: Bill exempting members of the clergy from jury service
(WO 17LS0162)

TO: Representative Eileen MacLean
Attn: Rena Bukovich

FROM: John B. Gaguine *JBG*
Legislative Counsel

I am writing about HB 82, a bill that I drafted for you that would exempt members of the clergy from jury service. Although my research has turned up no case law on the question, I have some reservations about the constitutionality of this bill. It seems to me that exempting only members of the clergy, and not other social service occupations (AS 09.20.030 prior to its 1981 amendment also exempted attorneys, teachers, doctors and dentists), might raise problems of equal protection (Article I, Section 1 of the Alaska constitution) or of establishment of religion (Article I, Section 4 of the constitution).

I would also note that this bill could present problems in application. Your intent, I would imagine, is to exempt full-time clergy members with established congregations, and not to exempt others' such as persons with full-time non-clergy jobs who may preside over small congregations meeting in homes, or persons allegedly clergy in probably bogus "religions". (There was a movement a few years ago where people were declaring themselves ministers in their own religion so that their homes could be free from property tax as religious property.) However, as to the first group, it would be difficult to draw a line between the full-timers and non-full-timers (and might present constitutional problems). As to the second group, there would be no constitutional problems. The courts require sincerity before a religious belief will be recognized, but proving the lack of sincerity can be very difficult and time-consuming.

Please let me know if I can be of further assistance.

JBG:pl
91-066.plm

UTKEAGVIK PRESBYTERIAN CHURCH

A CONGREGATION OF THE UNITED PRESBYTERIAN CHURCH, U.S.A.

ORGANIZED ON EASTER SUNDAY, APRIL 2, 1899

REV. JAMES E. ROGHAIR

REV. WILLA B. ROGHAIR

CO-PASTORS

UTKEAGVIK
PRESBYTERIAN CHURCH
P.O. BOX 730
BARROW, ALASKA 99723

October 2, 1990

Mr. Michael Jeffery, Judge
Alaska District-Court
Barrow, Alaska 99723

Honorable Judge Jeffery:

I know that you have received several letters from my wife (and co-pastor), myself and from the Session of the Utkeagvik Presbyterian Church regarding jury duty. And I think that you know our position.

As ministers in the Utkeagvik Presbyterian Church we are defacto community chaplains for Barrow and the whole North Slope. Our church conducts probably 95% of all funerals and death notifications in Barrow. We are called upon by the Borough Public Safety Office, the Health Department, the Public Health Service Hospital, the State Division of Youth and Family Services, and other organizations for community chaplaincy services. We are even the back up for pastoral counselling for the Assembly of God Church members in the case of a pastoral absence or a pastoral vacancy. We are required by our position to stand ready to serve the pastoral needs of anyone on the North Slope. And serving on a jury could jeopardize our ability to work pastorally with people involved.

These responsibilities are not limited to Barrow, because we have official responsibilities to the other Presbyterian Churches in Wainwright, Nuiqsut, Kaktovik, Atqasuk and Anaktuvuk Pass. When people come to Barrow for programs such as SATS or the hospital we have pastoral responsibilities for them, too. Episcopalians (who predominate in Pt. Lay and Pt. Hope) expect pastoral services from us when they are in Barrow, too.

All of this is a reminder once again that jury duty is incompatible with our reason for being on the North Slope. Therefore we need to ask for jury excusal on the basis of employer hardship.

If you continue to feel that is inadequate reason we would seek your assistance in approaching the Alaska Legislature to consider this situation and to adjust the Alaska Code to account for this fact of life on the North Slope. (Perhaps similar situations exist in other Bush communities.)

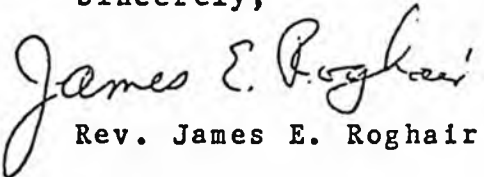
I do not intend to serve on a jury while I am on the North Slope because of this incompatibility of purpose.

Personally I feel that jury duty is a very important right and privilege of the American legal system. In general I feel that people should serve when called on a jury. But in view of the shortage of qualified pastors on the North Slope and view of the tremendous burden we carry as Borough Chaplains we cannot do it here.

In terms of coming over there to the court building to waste a few hours before I get excused from any particular case, I do not relish the thought, but may indeed do it if so directed by the court. For I do respect the court's authority. However, I think that my co-pastor Willa is scheduled sometime in October or November and would ask that I be deferred until her time is over if you determine that you cannot grant the excuse as required by the pastoral employment position.

By copies of this letter I am alerting the Presbytery of Yukon, our State Legislator, the Utkeagvik Session, and a colleague in ministry in the local Ministerial Association of the concerns.

Sincerely,


Rev. James E. Roghair

cc: Rev. Neil Munro, Executive of Yukon Presbytery
Rev. Del Burnett, Chair of Committee on Ministry
Ms. Eileen MacLean, State Representative
Elder Jeslie Kaleak, Clerk of Session
Rev. Duwain McKenzie, Pastor of Inupiat Assembly of God Church

KEEP THIS SECTION

You are being considered for jury service. To determine your qualifications for service, you must answer ALL the questions on the qualification form. When completed, please detach the qualification form and return it in the enclosed postage paid envelope. Failure to return the completed qualification form in 7 days may result in a warrant for you to appear in court.

901322669 01 30 43
SERVICE 3 MONTHS - TEAM C - YOU WILL BE CALLED FOR PETIT JURY DURING THE MONTHS OF OCT. THRU DECEMBER. THIS COMPLETED QUALIFICATION FORM AND ANY LETTER REQUESTING EXCUSAL OR DELAY IN JURY SERVICE MUST BE FILED WITH THE COURT IMMEDIATELY. SEPARATE SUMMONS WILL BE SENT TO YOU IDENTIFYING YOUR GROUP NUMBER AND EXPLAINING THE TELEPHONE CALL IN SYSTEM.

SEE REVERSE SIDE

QUALIFICATION FORM

DETACH HERE

CHANGE OF NAME OR ADDRESS

901322669 809
 ROCHAIR
 JAMES E
 PO BOX 730
 BARROKAK

99723

DO NOT FOLD THIS PORTION

JURY CLERK USE ONLY
 SBA P
 901322669
 ROCHAIR
 JAMES E
 PO BOX 730
 BARROKAK 99723
 01 30 43

1. How many miles, one way, do you live from the courthouse? 1.2
2. Your hearing (corrected) is: Good Fair Poor I am deaf.
3. Your vision (corrected) is: Good Fair Poor I am blind.
4. Your home phone number is 855-2451 work phone 852-6566
5. If you wish to be re-scheduled to a different date, turn this form over and explain on the back. For medical excuses, enclose a statement from your doctor. If over age 70, you may request permanent excusal. Write request on back of this card.
6. YES NO Are you a United States citizen?
7. YES NO Can you read and speak the English language?
8. YES NO Do you live in Alaska? How long? 3+ yrs
9. YES NO At the time of scheduled service, will you be at least 18 years of age? Date of birth 1943
10. YES NO Have you been instructed to call in or appear in court for jury duty within the past 12 months? If yes, when? _____
11. YES NO Is there any mental or physical reason that would prevent you from serving as a juror? If yes, see #5.
12. YES NO Have you ever been convicted of a felony? If yes, have you been unconditionally discharged?

DETACH AND RETURN THIS PART
 J-100 (8/58)

The answers are true and correct
 Signature: James E. Rocha
 DATE: 10/1/90

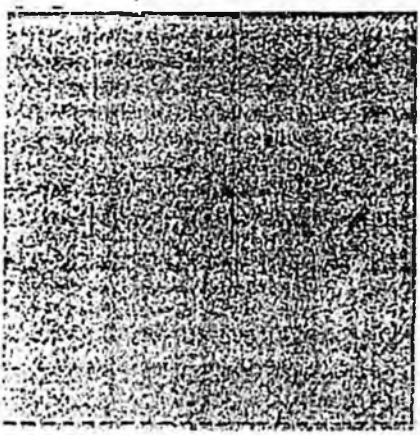
JURY EXCUSAL OR DEFERRAL

- If you need to request an excusal or deferral from jury duty, this is your ONLY opportunity to do so. Explain your reason for wanting to be excused or deferred on the back of your COMPLETED qualification form. You will be notified of the court's action regarding your request.
- Your service can be deferred to a date of your choice. Explain on the back of your qualification form the week-month you prefer.
- Medical Excuse — You may be excused or deferred from jury duty if your health or proper care of your family make it necessary to be excused or deferred. State reason and enclose doctor's statement.

- Employer Hardships — State reason and enclose letter from employer.
- Financial Hardships — State reason and, if employed, enclose letter from employer stating that you will not be paid while on jury duty.
- In Anchorage, for financial/employer hardship, do not send letter. Instead, you must report at the time shown and explain your reason to the Judge. For emergency questions ONLY, contact your local court. Further information will be given when you report for jury duty.

GENERAL INFORMATION

- FIRST DAY OF SERVICE. Report on the day and time indicated on your jury summons or as directed.
- SECOND AND SUBSEQUENT DAY. The jury clerk or judge will instruct you regarding further service.
- LUNCHESES are not provided. You may bring your own with you.
- COFFEE is provided.
- CLOTHES. Jurors are expected to be neat.
- PAY. Jury clerk will advise you.
- ABSENCE. Call the jury clerk.
- PARKING is juror's own responsibility.



10/1/90
 To the Court - please see enclosed letter.
 Rev. James E. Rocha



Superior Court
State of Alaska

SECOND JUDICIAL DISTRICT
P.O. BOX 2700
BARROW ALASKA 99723

Chambers of
JUDGE MICHAEL I. JEFFERY
Superior Court Judge

Phone: (907) 852-4800
Fax: (907) 852-4804

October 8, 1990

Rev. Dr. James E. Roghair
Rev. Dr. Willa Roghair
Utkeagvik Presbyterian Church
Post Office Box 730
Barrow, AK 99723

Dear Rev. Jim and Rev. Willa:

It seems best to address this letter to both of you, since you both have written recent, lengthy letters to the court expressing your desire to be exempted from jury duty in the Barrow Trial Courts. The basis for the request is based on your positions as pastors in this community and the very heavy workload experienced by you. As a member of your congregation, I'm very aware of the great service that persons such as you accomplish in a community like ours.

I have written you previously on this topic, but perhaps I have not been clear enough. By state law, a judge cannot excuse citizens in other occupations from jury duty simply because of their employment. As of 1981, the legislature decided that the only persons who may request to be exempted from jury duty based on their employment are judicial officers. A.S. 09.20.030. Prior to that amendment in the law, the legislature had allowed persons in the following occupations to request an exemption:

Rev. Dr. Jim Roghair
Rev. Dr. Willa Roghair
October 8, 1990
Page Two

1) a judicial officer; (2) any other civil officer of the state or United States whose duties are inconsistent with his attendance or service as a juror; (3) an attorney; (4) a minister of the gospel or priest of any denomination; (5) a teacher in a university, college, academy, or school; (6) a practicing physician; (7) a practicing dentist. (emph. supplied).

Former A.S. 09.20.030

As you stated in your most recent letter, you or the Presbytery may wish to approach the legislature to reinstate some or all of the previous categories for exemption that it eliminated in 1981. You asked that the court system do so as well. That decision is not up to me; however, I am forwarding a copy of your letter and this letter to the court administration in Anchorage for their information.

It is possible under current law to exempt someone from jury duty for advanced age (over 70), or

if it is shown that the person's health or proper care of the person's family, permanent physical or medical disability, or other substantial hardship expected to last more than two years makes it necessary for the person to be excused, or if the person is a judicial officer.

Administrative Rule 15; A.S. 09.20.030. The legislature changed the law in 1987 so that hearing or sight problems are no longer a jury excuse. A.S. 09.20.010(b).

The "substantial hardship expected to last more than two years" standard must be evaluated against the realities of the current jury system:

Rev. Dr. Jim Roghair
Rev. Dr. Willa Roghair
October 8, 1990
Page Three

-Who serves? Any person who receives a Permanent Fund Dividend, who is over 18 years of age and who has a Barrow address is on the computer list for the Barrow Trial Court. We do not bring in jurors from villages since all North Slope villages are more than 50 miles from Barrow. A computer in Anchorage randomly selects names each three months for the trial jury list. We have no control at Barrow about when a person is chosen, of whether the person is chosen for trial jury or grand jury service.

-Allowable deferments: By state law, a person showing "hardship" or "transportation problems" can be deferred for up to 10 months, providing that the person agrees to a new date of service. A.S. 09.20.035. In this court, I make these decisions personally. I receive hundreds of such requests yearly, and I believe that persons such as business managers, school principals, whaling captains and other subsistence hunters have found that the court has been sensitive to their needs. At the schools, for example, we have a "rotation system" so that only one teacher at a time from each school is called.

-Excusals at trial. The legislature has made a judgment that after deferrals of up to 10 months by the judge, any further excusals must be done on the public record during the trial. Once someone's term of jury duty begins--which could be as much as 10 months after the original summons--they are expected to remain in contact with the court for the three month term. Someone would have to physically come

Rev. Dr. Jim Roghair
Rev. Dr. Willa Roghair
October 8, 1990
Page Four

to court only 1) when a jury trial of some sort actually occurs (criminal, civil, inquest, etc.) and 2) if their assigned jury group were called. Even in a busy rural court such as ours, in most months there are no jury trials, or at the most one jury trial. Of course, any particular person's group may not even be called for that proceeding.

If someone is called for a jury trial, then they always have the opportunity to request an excusal from serving in that particular trial. We find that most people with obvious needs to be excused do not have to remain more than a couple of hours for the process required by the court rules governing jury trials to be completed. Then they are excused and need not return for that particular trial. Administrative Rule 15.

-When would someone be called again? Once someone has completed a term of jury duty, they cannot be called again for one year after their last date of jury service. A.S. 09.20.020. Whenever they are called again, which may be more than a year after the last date of previous service, the person could again ask for deferment of up to 10 months. In other words, the process described above starts over again.

As you can see from the above description, a person with great problems serving on jury duty would only have to spend a few hours at the court every 22 months or so. Of course, if someone having a great hardship to serve on jury duty chose not to request the 10 month deferral, they may be called for jury duty every 12-15 months.


Rev. Dr. Jim Roghair
Rev. Dr. Willa Roghair
October 8, 1990
Page Five

Of course, you are not alone in having hardships in serving on jury duty. I receive many letters from people who always work at night, or play critical roles at organizations like the hospital or public safety, or travel frequently, or have extreme financial hardship, or are breast feeding mothers, etc. As noted above, I believe that the citizens of Barrow have found the court to be flexible in meeting their needs, within the limits of state law discussed in this letter.

I know that both of you have particularly strong feelings about this subject. I hope that you have found this letter informative to you. You both clearly have grounds to request deferments of up to 10 months, but you will need to contact us with the date by which you wish to serve. A.S. 09.20.35. Your requests for total exemption based on your occupation as pastors or for "substantial hardship expected to last more than two years" must be denied.

Since you have sent copies of your most recent correspondence to a number of other individuals, a courtesy copy of this letter is being sent to them as well.

Sincerely,



MICHAEL I JEFFERY
Superior Court Judge

cc. Rev. Neil Munro, Executive of Yukon Presbytery
Rev. Del Burnett, Chair of Committee on Ministry
Hon. Eileen Maclean, Representative, Dist. 22
Elder Jeslie Kaleak, Clerk of Session, Utkeagvik Church
Chris S. Christensen III, Staff Counsel, Alaska Court
System, Anchorage
Rev. Duwain McKenzie, Pastor, Assembly of God Church,
Barrow

RECEIVED APR 08 1991



United Methodist Church of Sitka

303 Kimsham Street

Sitka, Alaska 99835

Office (907) 747-8775 Parsonage (907) 747-8425

April 4, 1991

Judiciary Committee
Dave Donley, Chairman
P. O. Box V
Juneau AK 99811

RE: NB No. 82

Dear Chairman Donley:

While it is my understanding that this bill does not have a great deal of support, I wanted you to know of at least one member of the clergy who is opposed to it, just for the record.

Service as a juror is one of the privileges and obligations of a citizen and I do not think clergy should be exempted from that duty.

If there are special circumstances which apply, the system has many ways of dealing with that reality, without changing the State Statutes.

When I was the pastor in Nome, I served on a Grand Jury which ~~indicted~~ ~~indicted~~ indicted one of my church members, albeit not one of my more active ones. There did not appear to be any problem in that process.

If any pressure builds to act on this legislation, I would appreciate the opportunity of testifying or having these remarks made part of the record. I do not feel you would find wide support for this legislation among members of the clergy.

Sincerely,

A handwritten signature in cursive script that reads "John J. Shaffer".

John J. Shaffer
Pastor

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill No. HB 82

Revision Date: 01/21/92 Department Affected: Alaska Court System
 Title: An Act exempting members of the BRU: Trial Courts
clergy from service as jurors Components: _____
 Sponsor: MacLean
 Requestor: Judiciary Committee COMPONENT SERIAL NO.

| | |
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| 000 000 | 000 768 |
|-----------|-----------|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS & CLAIMS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

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|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUNDS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Division: Alaska Court System Date: 01/21/92

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CS* Date: 01/21/92
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. HB 82

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act exempting members of the BRU: Trial Courts
clergy from service as jurors Components: _____
 Sponsor: MacLean
 Requestor: Judiciary Committee COMPONENT SERIAL NO.

| | | | |
|-----|-----|-----|-----|
| 000 | 000 | 000 | 768 |
|-----|-----|-----|-----|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS & CLAIMS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUNDS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/08/91
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).