

12 JUL 57
HUT • TITLE NO. 5

No. 5

HB

HB 680

The Legislature of the State of Alaska
FISCAL NOTE
Second Session - Sixth State Legislature

COPIES: THE CHAIRMAN OF THE COMMITTEE MAKING THE REQUEST, POUCH V
 THE LEGISLATIVE FINANCE COMMITTEES' STAFF, POUCH Y
 THE DIVISION OF BUDGET & MANAGEMENT, POUCH C
 RETAIN A COPY FOR YOUR FILES

subject Fair Hearings HB 680 SB
requested by _____
referred to _____ date of request _____
completion date requested _____ date received _____

EXPENDITURE DETAIL	FY 70-71	FY 71-72	FY 72-73
100 PERSONAL SERVICES	\$ 45,000	\$ 50,400	\$ 56,400
200 TRAVEL	52,600	58,900	66,000
300 CONTRACTUAL SERVICES	30,000	33,600	37,600
400 COMMODITIES			
500 EQUIPMENT	8,400	9,400	10,500
600 LAND AND STRUCTURES			
700 GRANTS, CLAIMS & SHARED REVENUE			
TOTAL	\$ 136,000	\$ 152,300	\$ 170,500

FUNDING DETAIL			
FEDERAL RECEIPTS	\$ 78,000	\$ 87,400	\$ 97,900
SPECIAL FUNDS			
UNRESTRICTED GENERAL FUND RECEIPTS	58,000	64,900	72,600
Man Months			
Permanent Positions			
Temporary Positions			

FISCAL ANALYSIS

1 Attorney	\$25,000
1 Reporter/secretary	20,000
Travel-attorney 100 trips @ \$150 average	15,000
Travel-reporter 100 trips @ \$150 average	15,000
Per diem-attorney 300 days @ \$21 per day	6,300
Per diem-reporter 300 days @ \$21 per day	6,300
Salaries- 100 client attorneys, 3 days @ \$100 per day	30,000
Travel- 100 client attorneys @ \$100 average	10,000
Equipment, office space, etc.	<u>8,400</u>
Total	\$136,000

The above is based on 100 fair hearings throughout the State considering the fair hearing officer based in Juneau.

Federal matching claimed at 50% for hearing officer. Federal matching at 75% for client attorney costs per SRS Regulation 10-2. A fee schedule must be developed to claim federal matching and payment through the Department of Health and Welfare.

DATE February 23, 1970

SIGNATURE _____

NAME & TITLE Stanley P. Harris, Director
Division of Public Welfare



O'NEILL INVESTIGATIONS

FOURTH AVENUE BUILDING
272-2431
ANCHORAGE, ALASKA 99501

COLLECTION & AUDIT DIVISION

R. MICHAEL O'NEILL, OWNER

March 10, 1970

To: House Commerce & Judiciary Committees

Re: H.B. 702 - Regulating collection activities of
collection agencies and loan companies

Gentlemen:

As a member of the Governor's Collection Agency Board and as a owner of one of the biggest collection agencies in Alaska I can see no need for additional legislation to regulate our agencies as is indicated in H.B. 702. We have in Alaska a model collection agency act that was passed two years ago which already covers many of the proposals in 702.

I question why collection agencies are grouped with finance companies. There is a wide divurgance in the collection procedures of a collection agency and those of a finance company. Alaska Court records will reflect judgments against finance companies for damages based on their collection tactics yet I do not know of any cases against collection agencies. The Better Business Bureau Division of the Anchorage Chamber of Commerce reports they have had a minimum number of complaints on collectors as compared to other service agencies.

Alaska is experiencing a great influx of transients at this time which will ultimately put a maximum burden on our various welfare agencies. If you take away the credit grantors final remedy of collection by curtailing our activities you will be creating a haven for the nations deadbeats as I know of no other state that restricts the collector such as is proposed in 702.

For the betterment of Alaska I feel this Bill should not pass and request to be heard at a Committee Hearing on this matter.

Very truly yours,

O'NEILL INVESTIGATIONS

R. Michael O'Neill
R. Michael O'Neill

ASSOCIATE MEMBER:

LOIS J. INGALLS
OWNER, MANAGER
PHONE 277-3037

File
LICENSED & BONDED
NOTARY PUBLIC

DOCTORS' COLLECTION SERVICE

213 - 6TH AVENUE, ROOM 3
ANCHORAGE, ALASKA

March 5, 1970

In Re: House Bill 702

House of Representatives
The Honorable, Barry W. Jackson
Chairman of Judiciary Committee
Pouch V
Juneau, Alaska 99801

Dear Sir:

I am very concerned about House Bill 702 as it could very probably put me and several other collection agencies out of business. We are already regulated by federal and state laws and most of us are under the American Collectors code of Ethics.. If I could stay in business at all it would mean higher collection fees which in turn would evidently mean the Doctors would have to raise their fees to compensate for the loss.

I am very much against this Bill and sincerely hope that you will consider my concern and future, which depends on if this bill passes or not.

Thank you.

Very truly yours,

Lois J. Ingalls
Lois J. Ingalls



HB-702

AMES CREDIT and ADJUSTMENT BUREAU

514 Second Avenue, Lathrop Building Room 102
P.O. Box 522, Fairbanks, Alaska 99701
Phone 452-4481 or 452-4482

Member of:
Alaska Collectors Association
American Collectors Association
Washington State Collectors Association
American Repossession Association
Allied Finance Adjusters

March 3rd, 1970



House of Representatives
The Honorable, Barry W. Jackson
Chairman of Judiciary Committee
Pouch V
Juneau, Alaska

Re: House Bill 702

Dear Barry:

On behalf of the Alaska Collector's Association of which I am Sect. and Treasurer we urge it's defeat. Benefits from passage we do not see. The people in Alaska engaged in collection activity are all bonded, finger printed and yes, even mugged. The integrity of no other "profession" (if I may so call it) has been attacked as has collections. The owners and employees of these agencies are law abiding citizens, property owners and voters in the State of Alaska. Believe at this time we have enough legislation governing collections.

It is our firm belief that we have the most qualified men down in Juneau IF only they would concentrate and apply their knowledge to vital issues. The future of Alaska is in the hands of the men in Juneau, certainly this vast knowledge combined will work toward the most important items, thus benefiting all Alaskans.

Hope to see you during convention, with kindest regards,

Mary Barnes
Protect Your Credit That It May Serve You Well

HB-702

PERSONAL COLLECTIONS

P. O. BOX 988
ANCHORAGE, ALASKA 99501

D. M. LEACH, OWNER

March 3, 1970

Re: House Bill 702

Honorable Barry W. Jackson
Chairman, Judiciary Committee
Pouch V
Juneau, Alaska 99801

Dear Chairman Jackson:

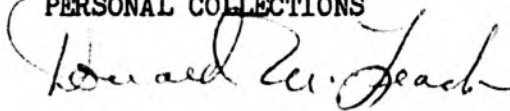
As a new Owner of this Collection Agency, but a three and one half year manager of O'Neill Investigations, after Mel Personett came to Juneau, I would like to urge you to VETO the above bill. As anyone can see, it would hamstring an agency and for all practical purposes put one out of business. With the write-offs to business being what they are now for unpaid bills, we cannot afford to further restrict RESPONSIBLE agencies.

I am highly in favor of being very restrictive as to whom is granted a license to operate a Collection agency, however. I wish to go on record as being in favor of a higher Collection agency bond than is now required, and further, to not license anyone as owner or operator of a Collection agency in Alaska who personally has a past record of not paying their own bills, and this would have to be established by a Credit report.

I have been a resident of Alaska since January, 1963, have three children in school here, the ldest, Linda, who graduates from Dimond this year with a straight A average. My wife is a GS 6-8 with the FAA, and 13 years Government service.

Very truly yours,

PERSONAL COLLECTIONS



Donald M. Leach

440 W. 5th Ave. Suite 5
272-8525



File

Professional Business Bureau

519 W. 8TH AVENUE ANCHORAGE, ALASKA 99501 272-8214



March 2, 1970

The Honorable Barry W. Jackson
State of Alaska
Chairman of Judiciary Committee
Pouch V
Juneau, Alaska 99801

Dear Sir:

Re: House Bill 702

I would like to voice opposition to the above named bill, relating to Collection activities.

As manager of a collection service for the members of the Alaska State Medical Association, I find the bill to be very stringent and restrictive for the Creditor and Agency and allows more leniency for the debtor !! There would be such detailed paper work involved as to cause additional charges and personnel , in order to process claims.

Please, see what you can do to influence the vetoing of this bill.

Thank you.

Sincerely,

Lois W. Rone

Lois W. Rone

Manager

lwr

(P.S.) If you have any questions in regard to our stand on the bill , please contact us.

CREDIT BUREAU OF KETCHIKAN

PHONE CANal 5-5131 - 527 MISSION STREET - P. O. BOX 2207

KETCHIKAN, ALASKA 99901

March 3, 1970

The Honorable Barry W. Jackson
Chairman of Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99801

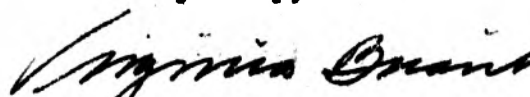
Dear Sir:

HB # 702 restricting collection agency activities has come to my attention and I feel that it is very unfair and discriminatory to my business. The reasons I am opposed are:

1. The State of Alaska has just passed a collection agency law (which the Alaska Collectors helped work out with our representatives) setting up bonding requirements and qualifications for collectors. There has been a board appointed to handle any complaints against collection agencies.
2. My business is already regulated, not only by the State of Alaska, but also by the Code of Ethics of the National American Collectors Assn and my membership in the Associated Credit Bureaus of America. There are strict requirements that I had to meet as manager of a Credit Bureau before I could be admitted to membership in the Associated Credit Bureaus. I have been a member since 1962 and have had no complaints filed against me.
3. This law is discriminatory against collection agencies. Lawyers and credit managers of local business houses also do a great deal of collecting in our state. What restrictions have been set up against their collection methods?
4. We do serve a need in our area by returning money to the economy. Last year our agency returned \$ 85,535.72 to our community that had been written off in bad debts. I pay a four person payroll, city, state, borough and federal taxes.
5. I conduct an ethical and honest business and I feel that HB # 702 could possibly increase my costs and certainly my worries so that I could not continue to operate.

Your consideration of this matter will be appreciated and I would like to have the opportunity to appear before your committee. Please advise when this will be possible.

Yours very truly,


(Mrs.) Virginia Briant

CC: Rep. Bill Boardman
Senator Bob Ziegler
G. L. Gucker, Legislative Chairman
Ketchikan Chamber of Commerce
Governor Keith Miller

File
HB 702

HB 703

LAW OFFICES OF
FAULKNER, BANFIELD, BOOCHEVER & DOOGAN

HERBERT L. FAULKNER
NORMAN C. BANFIELD
ROBERT BOOCHEVER
FRANK M. DOOGAN
DONALD L. CRADDICK
AVRUM M. GROSS
MICHAEL M. HOLMES

ROOM 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

TEL. 586-2210
AREA CODE 907

February 20, 1970

C

The Honorable Lester Bronson, Chairman
Commerce Committee
House of Representatives
Juneau, AK 99801

re: HB - 703 -
Alaska Small Loan Act

Dear Mr. Chairman:

O

Enclosed is a copy of HB-703 which has been referred to your committee.

I represent Household Finance Corporation which is interested in this type of legislation and if this bill is considered by your committee, I would like to have notice of the time of the meeting and be allowed to present the views of my client.

P

This bill states that if a small loan company has an outstanding loan which is in default, it cannot make a new loan for a larger amount.

The branch managers of Household Finance Corporation are instructed that they are not to make a larger loan than the balance of the prior loan then in default, unless they will be doing some service which will permit the borrower to repay a larger loan.

Y

A typical illustration is where a borrower has missed a payment and comes into the office to explain that an emergency has arisen which has taken his available cash, such as a member of his family being in the hospital and he has to use his money to give money to the hospital in order to release his wife or child. Very often they need more money and are capable of repaying a large loan. Under such circumstances, Household permits a larger loan to be made because the company then rescues the customer from an unfortunate situation he could not avoid and it permits him to continue making regular payments to the company.

In my own personal dealings with my regular bank, I have often borrowed more money than I owed at the time I originally took out the loan and I think people dealing with small loan companies

The Hon. Lester Bronson, Chairman
Commerce Committee
Page 2.

February 20, 1970

should be allowed the same privilege.

We know of no logical reason for such a restriction and we believe this bill, if enacted, would do a disservice to many people who have good credit, make their payments regularly but find themselves in a position where they have to have an additional amount of credit.

I intend to be in Anchorage all of next week and will not be available then to appear before your committee.

Yours very truly,

N. C. Banfield
N. C. Banfield

Barry:

*This bill will come to your committee
after Comm.*

NCB:rp

cc: F. O. Kestough
D. R. Buckey
Wendall Kay
Barry W. Jackson ✓

Norman

STATE OF ALASKA
Inter-Department Route Slip

TO: Alaska State House
DEPT.: of Representatives
ATTN.: Barry W. Jackson

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input checked="" type="checkbox"/> Your Information |

Remarks:

Xerox 10 ^{copies} ~~pages~~
of last 2 pages only
for Tmr.

From: Sig Strandberg
Dept.: Legal Affairs Date 7/16
By: llh

MEMORANDUM**State of Alaska**

OFFICE OF THE GOVERNOR

TO:

The Honorable Barry W. Jackson, Chairman
House Judiciary Committee
Alaska State House of Representatives

DATE : April 7, 1970

FROM: Sigvald J. Strandberg *SS*
Acting Director
Local Affairs Agency

SUBJECT: House Bill No. 740

Mrs. Mason, Secretary to your committee, recently advised the agency of your interest in the agency's analysis of House Bill No. 740. It is my understanding that this bill has been moved out of your committee with a majority signing "No Recommendation."

House Bill No. 740 amends AS 40.15.190(2) to allow a limited amount of land subdivision to be accomplished without subjection to the control of a local government platting authority. This proposed amendment would enable a land owner to divide a piece of property into four or fewer parcels, each of which is required to be five or more acres in size, without the approval of the platting authority. The bill provides that such parcels must be amenable to aliquot parts description.

Apparently the primary purpose of House Bill No. 740 is to relax local subdivision control in order to permit property owners of a municipality to perform a limited amount of subdivision without having to comply with that municipality's subdivision regulations. In addition, exemption from compliance with local subdivision regulations to the extent afforded in House Bill No. 740 would afford the land owner with the opportunity to avoid engineering and surveying expenses through the use of aliquot parts method of property description.

It is the opinion of the agency, after having reviewed House Bill No. 740 and a similar measure in the Senate (Senate Bill No. 164), that the current definition of subdivision as expressed in AS 40.15.190(2) should be retained in the statutes. Control of subdivision by city and borough platting authorities is an extremely important tool in regulating the land usages and general patterns of community development. Exemption from compliance from local subdivision ordinances, even to the extent proposed in House Bill No. 740, introduces a potential for disorderly patterns of land use and attendant future problems in the location of roads and public utilities. Even though House Bill No. 740 provides that the land which is to be divided into four or fewer tracts must have access to a public highway or street, this is not adequate assurance that such land division will harmonize with established land use patterns. Aliquot parts division tends to minimize rights-of-way difficulties as does restriction of the size of the divided parcels to units of five acres or more. However, the salient objections would still exist: establishment of land use patterns not in concert with the overall principles set forth in a Comprehensive Community Development Plan, loss of control of population densities, future difficulties in integrating road networks and utility extensions and future engineering problems with respect to varying topographies.

MEMO TO:
The Honorable Barry W. Jackson

April 7, 1970
Page 2

In light of the above potential difficulties, it is our opinion that local planning, platting, and zoning authorities should continue to have the same subdivision authority as they now are accorded under the definition of subdivision contained in AS 40.15.190.

I am attaching the comments of the Greater Anchorage Area Borough Planning and Zoning Commission relative to their opposition to House Bill No. 740.

SJS:1k

Attachments



PLANNING DEPARTMENT
GREATER ANCHORAGE AREA BOROUGH

104 NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503

*See
Local Affairs*



March 11, 1970

TO: Senate and House Resources & Local Government Committees
FROM: Planning and Zoning Commission
SUBJ: Opposition to House Bill 740

HB 740 purports to change the definition of "subdivision".

Since subdivision control is a legal and proper device for fostering better community development, it becomes an important facet in comprehensive community planning. The orderly and planned growth of undeveloped areas within a municipality is best promoted through statutes regulating land subdivision. It would appear that the developer of a subdivision is to some extent an architect of the future growth of a municipality. The developer establishes a land use pattern that will endure for years through the creation and installation of new streets, utilities, parks and other open spaces, and through the changes that his development occasions in the pattern of population density. Such development may necessarily and properly be guided by an exercise of police power.¹

From the standpoint of actual subdivision practice, enactment of the proposed legislation would mean that literally thousands of acres could be subdivided without reference to the Platting Board. The benefits to the individual buyer in a properly platted subdivision are clear; guarantee of access via a dedicated street, proper provision of utility easements, clear, legal, recorded and surveyable description of his land, careful planning of lot sizes, road grades and drainage, detailed knowledge of available public facilities and many others. The great advantage to the general public in having equitable, logical and strictly enforced subdivision regulations is not always so clear, but when one considers the real shortage of available land for urban expansion, the over-riding necessity of land subdivision regulations can be readily seen.

Planning is for the people; and the priorities for schools, roads, water and sewer services, police and fire protection, libraries and cultural facilities, parks and recreation and open spaces can best be determined in accordance with a basic land use plan. The meaningful development of such a plan, and the implementation thereof is dependent, to a large degree, on the ability to regulate and guide the subdivision of land.

¹Yokley: The Law of Subdivisions, the Michie Company, 1963.

Memo to Senate and House Resources & Local Government Committees
Page 2
March 11, 1970

It is not felt necessary at this time, to research and document the many factors of a planning program that could become virtually meaningless if this act were to pass. We think, however, that the dangers of changing the very meaning of subdivision and excluding tracts of 5 acres or more, and aliquot parts divisions, should be abundantly clear to all those who have, as their prime goal, the protection of the public interest.

The Greater Anchorage Area Borough Planning Commission last year adopted a resolution in firm opposition to the passage of a similar bill (SB 164), and enclose herewith a resolution opposed to the passage of HB 740. The Planning Association of Alaska has also expressed opposition to this bill, as has the City of Anchorage Public Works Department. If this bill is going to be substantively discussed by the Committees, we would be most appreciative of an opportunity to testify, and to submit resolutions from a large number of concerned agencies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. W. Pavitt". The signature is stylized with a large, looping initial "R" and a horizontal line extending to the right.

R. W. Pavitt, AIP
Planning Director

RWP:rvd

GREATER ANCHORAGE AREA BOROUGH

PLANNING AND ZONING COMMISSION RESOLUTION NO. 527

RESOLUTION OPPOSING PASSAGE OF HOUSE BILL NO. 740

WHEREAS, subdivision control is a reasonable, effective and proper device for bettering and fostering community development, and

WHEREAS, the orderly growth of undeveloped areas within a municipality is best guided through statutes regulating land subdivision, and

WHEREAS, the development of subdivisions has a profound effect on the growth of a community through the installation of streets, utilities, parks and other open spaces, and through the changes that the said development occasions in the pattern of population density, and

WHEREAS, AS 40.15.190 (2) adequately and properly describes the meaning of subdivision, and the resultant regulation of platting activity constitutes a measure of protection to the individual purchaser, assuring him of a proper, legal and surveyable parcel of land, and

WHEREAS, the Greater Anchorage Area Borough, and other rapidly developing areas throughout the State of Alaska would be grievously damaged if the responsibility and duty of providing public protection through duly enacted subdivision regulations was to be removed from public review.

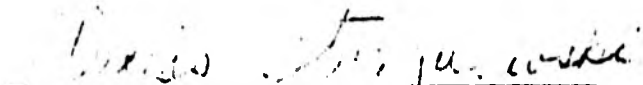
NOW, THEREFORE, BE IT RESOLVED by the Greater Anchorage Area Borough Planning and Zoning Commission, sitting as the Greater Anchorage Area Platting Board, that this body go on record as being inalterably opposed to the passage of House Bill No. 740, currently before the Sixth Legislature, Second Session, in the Legislature of the State of Alaska.

BE IT FURTHER RESOLVED that true and correct copies of this resolution be forthwith addressed to the Borough Assembly of the Greater Anchorage Area Borough, the Borough Chairman, the Borough Attorney, the Chairman of the Local Government Committees and Resource Committees of the Alaska House and Alaska Senate, and other interested parties.

PASSED AND ADOPTED this 4th day of March, 1970, by the Greater Anchorage Area Borough Planning and Zoning Commission.



R. W. Pavitt, Secretary



Arliss Sturgulewski, Chairman

File

LAW OFFICES
WANAMAKER & DICKSON
ROOM 301 - AUSTRALASKA BUILDING
360 "K" STREET
ANCHORAGE, ALASKA 99501

JAMES N. WANAMAKER
GEORGE A. DICKSON

TELEPHONE
272-0519

April 2, 1970

Dear Representative Jackson:

It has come to my attention that HB 740 (Land Subdivision) may come to a floor vote.

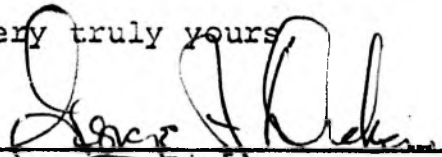
Presently, the pertinent statute (AS 40.15.190 (2)) requires a subdivision of land to be approved by a platting board before it can become legal. This requirement of subdivision approval is the most basic and important tool available to land planners. It insures that land is developed in an orderly manner. The control of these divisions of land is as old as written records. The Egyptians and Greeks both maintained systems for the division of land.

To gut Title 40 by passing HB 740 would be to retreat almost beyond the dawn of recorded history. The social and economic cost to the community and to present and future generations which would be incurred by the passage of HB 740 are almost incalculable. HB 740 would allow land to be subdivided into as many as four lots with no more control than that all lots have access to a public highway. This ignores whether or not all lots have practical access to the public highway (there could very well be a cliff at the point of access), it takes no account of land lying behind the subdivided acreage which could be left without access if no dedicated road was required, the bill makes no provision for utility easements, no survey would be required so that a future buyer would know where his land actually was, dedication could not be required for the needed widening of existing public highways, the lots created could be of any shape, i.e., 100 feet wide and 1,000 feet long. The above are only a few items that occur to me as I write this.

April 2, 1970
Page 2

I spent three years as a land planner and my law practice now is primarily concerned with real estate. For the public welfare, I ask you to please vote against HB 740.

Very truly yours



George A. Dickson

GAD/kdr



Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246
PLANNING-ZONING COMMISSION

April 6, 1970

Harold M. Eby
819 E. Fourth Avenue
Anchorage, Alaska 99501

Dear Mr. Eby:

FIRST NOTICE

Under the provisions of Title 8 of the Borough Code of the Matanuska-Susitna Borough and the provisions of state law, the Matanuska-Susitna Borough Planning Commission is the duly constituted platting authority with jurisdiction over all lands in the Matanuska-Susitna Borough.

A copy of Ordinance number 65-4 which spells out the powers and duties of the Platting Board and the penalties against property owners who do not comply with the law concerning subdivision plats will be furnished you upon request.

Information has been received that you, or someone acting for you, as the case may be, may have sold or entered into a contract to sell land in a subdivision created by you before a plat of the subdivision has been prepared, approved and recorded as required by law. If such is the case, you are in violation of state law and the purpose of this letter is to call the matter to your attention. If, after reading the statute quoted hereinbelow you find that you are in violation, you are requested to get in touch with the undersigned promptly with the object of filing your plat, or request to waive the platting regulations, without undue delay and securing the required approval of the Platting Authority before recording it. Failure to comply with the law after notice will subject anyone in violation ultimately to prosecution under the strict terms of the law.

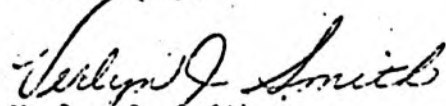
The penal statute referred to above is to be found in Alaska Statutes, Section 40.15.130, and reads as follows:

"PENALTIES. A.S. 40.15.130. (a) The owner or agent of land located within a subdivision who transfers, sells, or agrees, or enters into a contract to sell land in the subdivision before a plat of the subdivision has been prepared, approved, and recorded in compliance with this chapter and the subdivision regulations adopted under this chapter, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel transferred or sold or agreed or included in a contract to be sold. The platting authority may enjoin a transfer or sales or agreement to sell, and may recover the penalty by appropriate legal action.

(b) No person may file or record a plat of subdivision in any public office unless the plat bears the approval of the platting authority. Any person who files or records a plat in violation of this requirement upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than six months, or by both."

If there is any question as to whether you are in violation of the above quoted ordinance it is advised that you notify the Borough Office, Planning and Zoning Department, as soon as possible.

Yours truly,



Verlyn J. Smith
Planning Commission Secretary
Matanuska-Susitna Borough

vjs

Enclosure: Evidence of violation

19-990

17102W 511

BOOK 758 PAGE 248
Palmer Recording District

*STATUTORY WARRANTY DEED
(Tenancy by the Entirety)

The Grantor, HAROLD M. EBY, a single man, pursuant to Section 34.15.030; Alaska Statutes 1962, for and in consideration of the sum of One Dollar (\$1.00), and other valuable considerations in hand paid, conveys and warrants to ROGER L. MUSGROVE and JUDITH A. MUSGROVE, husband and wife, as TENANTS BY THE ENTIRETY with the right of survivorship, Grantees, the following described real estate situate in the Palmer Recording District, Third District, State of Alaska, to-wit:

The South one-half of the Northeast one-quarter and the Northeast one-quarter of the Southeast one-quarter, Section 14, Township 17 North, Range 2 East, Seward Meridian, in the Palmer Recording District, Third District, State of Alaska, containing approximately 120 acres, more or less; subject to existing easements, restrictions and reservations of record, if any.

DATED this 9th day of May, 1969.

Harold M. Eby
Harold M. Eby

STATE OF ALASKA)
) SS.
THIRD DISTRICT)

THIS IS TO CERTIFY that on this 9th day of May, 1969, before me, the undersigned Notary Public, personally appeared HAROLD M. EBY, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

Margaret A. Smith
Notary Public in and for Alaska
My commission expires 6-1-71



PLANNING DEPARTMENT
GREATER ANCHORAGE AREA BOROUGH

104 NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503



March 11, 1970

TO: Senate and House Resources & Local Government Committees
FROM: Planning and Zoning Commission
SUBJ: Opposition to House Bill 740

HB 740 purports to change the definition of "subdivision".

Since subdivision control is a legal and proper device for fostering better community development, it becomes an important facet in comprehensive community planning. The orderly and planned growth of undeveloped areas within a municipality is best promoted through statutes regulating land subdivision. It would appear that the developer of a subdivision is to some extent an architect of the future growth of a municipality. The developer establishes a land use pattern that will endure for years through the creation and installation of new streets, utilities, parks and other open spaces, and through the changes that his development occasions in the pattern of population density. Such development may necessarily and properly be guided by an exercise of police power.¹

From the standpoint of actual subdivision practice, enactment of the proposed legislation would mean that literally thousands of acres could be subdivided without reference to the Platting Board. The benefits to the individual buyer in a properly platted subdivision are clear; guarantee of access via a dedicated street, proper provision of utility easements, clear, legal, recorded and surveyable description of his land, careful planning of lot sizes, road grades and drainage, detailed knowledge of available public facilities and many others. The great advantage to the general public in having equitable, logical and strictly enforced subdivision regulations is not always so clear, but when one considers the real shortage of available land for urban expansion, the over-riding necessity of land subdivision regulations can be readily seen.

Planning is for the people; and the priorities for schools, roads, water and sewer services, police and fire protection, libraries and cultural facilities, parks and recreation and open spaces can best be determined in accordance with a basic land use plan. The meaningful development of such a plan, and the implementation thereof is dependent, to a large degree, on the ability to regulate and guide the subdivision of land.

¹Yokley: The Law of Subdivisions, the Michie Company, 1963.

Memo to Senate and House Resources & Local Government Committees
Page 2
March 11, 1970

It is not felt necessary at this time, to research and document the many factors of a planning program that could become virtually meaningless if this act were to pass. We think, however, that the dangers of changing the very meaning of subdivision and excluding tracts of 5 acres or more, and aliquot parts divisions, should be abundantly clear to all those who have, as their prime goal, the protection of the public interest.

The Greater Anchorage Area Borough Planning Commission last year adopted a resolution in firm opposition to the passage of a similar bill (SB 164), and enclose herewith a resolution opposed to the passage of HB 740. The Planning Association of Alaska has also expressed opposition to this bill, as has the City of Anchorage Public Works Department. If this bill is going to be substantively discussed by the Committees, we would be most appreciative of an opportunity to testify, and to submit resolutions from a large number of concerned agencies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. W. Pavitt", with a long horizontal line extending to the right.

R. W. Pavitt, AIP
Planning Director

RWP:rvd

GREATER ANCHORAGE AREA BOROUGH

PLANNING AND ZONING COMMISSION RESOLUTION NO. 527

RESOLUTION OPPOSING PASSAGE OF HOUSE BILL NO. 740

WHEREAS, subdivision control is a reasonable, effective and proper device for bettering and fostering community development, and

WHEREAS, the orderly growth of undeveloped areas within a municipality is best guided through statutes regulating land subdivision, and

WHEREAS, the development of subdivisions has a profound effect on the growth of a community through the installation of streets, utilities, parks and other open spaces, and through the changes that the said development occasions in the pattern of population density, and

WHEREAS, AS 40.15.190 (2) adequately and properly describes the meaning of subdivision, and the resultant regulation of platting activity constitutes a measure of protection to the individual purchaser, assuring him of a proper, legal and surveyable parcel of land, and

WHEREAS, the Greater Anchorage Area Borough, and other rapidly developing areas throughout the State of Alaska would be grievously damaged if the responsibility and duty of providing public protection through duly enacted subdivision regulations was to be removed from public review.

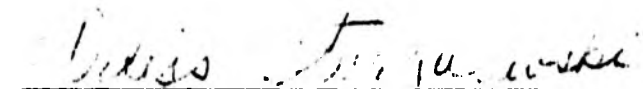
NOW, THEREFORE, BE IT RESOLVED by the Greater Anchorage Area Borough Planning and Zoning Commission, sitting as the Greater Anchorage Area Platting Board, that this body go on record as being inalterably opposed to the passage of House Bill No. 740, currently before the Sixth Legislature, Second Session, in the Legislature of the State of Alaska.

BE IT FURTHER RESOLVED that true and correct copies of this resolution be forthwith addressed to the Borough Assembly of the Greater Anchorage Area Borough, the Borough Chairman, the Borough Attorney, the Chairman of the Local Government Committees and Resource Committees of the Alaska House and Alaska Senate, and other interested parties.

PASSED AND ADOPTED this 4th day of March, 1970, by the Greater Anchorage Area Borough Planning and Zoning Commission.



R. W. Pavitt, Secretary


Arliss Sturgulewski, Chairman

HB-741

DICKERSON REGAN
SUPERVISING ATTORNEY

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

January 27, 1970

TO: Barry Jackson, Chairman
House Judiciary Committee

FROM: Philip B. Byrne, Deputy Director *PBB*

Dick Regan and I will appear before your Committee to seek Committee support for three bills we are advocating.

(a) A bill to prohibit harrassment and abusive practices by collection agencies.

(b) A bill to abolish the remedy of common law distraint.

(c) A bill to provide certain tenant remedies to assure habitable rental housing.

I am enclosing a copy of each proposed bill, together with an explanation of its provisions.

Should you have any questions, I am available at 6-6145, and can meet with you at any time.

cc: All House Judiciary Committee members.

DICKERSON REGAN
SUPERVISING ATTORNEY

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION

111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

February 13, 1970

Representative Barry W. Jackson
Chairman
House Judiciary Committee

Dear Mr. Chairman:

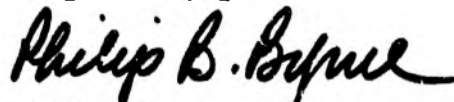
In response to your request for further information regarding our proposed legislation concerning the right of a tenant to use rent payments for the repair of leased dwellings I have prepared a revised version that reflects some of the concerns of the Committee.

We have not been able to satisfy your request for case histories since our inability to offer any satisfactory legal approach to these problems inhibits the number of clients that seek us out and ask for help in this area. We do know that there is a serious lack of adequate and safe housing for indigent people in both urban and rural settings, but have no experience in attempting to use rent payments for the repair of defects.

The revised bill would tie the existence of housing defects to a local housing or building code or ordinance, as determined by the local official responsible for enforcement of that code.

A section-by-section analysis and a copy of the revision is attached. I am most interested in exploring with you the prospects for legislation of this type, and am available at 6-6145 at any time.

Very truly yours,


Philip B. Byrne

PBB:fm

SECTION BY SECTION ANALYSIS OF

REVISED

SAFE HOUSING BILL

Section 34.05.050.

- (a) Provides for termination of a residential lease after one week's notice where there is a violation of the local housing code (hereafter, "code violation").

No notice is required where the code violation is a danger to health or safety of the occupants.

Inapplicable where the code violation was caused by an occupant.

- (b) Code violations are to be determined only by the local code enforcement official (Hereafter, "official").

If the official does not make the inspection within 10 days, or where there is no official, then the tenant may terminate if the code violation is a threat to the health or safety of the occupants.

- (c) Code violations caused wilfully or negligently by the landlord subject him to an action for damages.

Section 34.05.060.

- (a) Provides for the use of up to two weeks' rent to repair code violations where the violation has been determined by the local official, and where the tenant has given the landlord two weeks' notice. The tenant must also give the landlord copies of the receipts for the work done.

- (b) Provides for the use of up to four weeks' rent, where, in addition to the determination of a code violation by the local official, the tenant submits a written estimate four weeks before having the work done and supplies receipts to the landlord.

- (c) Where there is no official, or the official does not inspect within 10 days after a request, then the tenant may proceed according to the other requirements of this section if the code violation renders the dwelling unsafe, unsanitary, untenable, or poses an imminent threat to the health or safety of any occupant.

Section 34.05.07C.

Prohibits retaliatory evictions of tenants using the provisions of this Act.

COLLON CONIEM
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MITEBA BMTA

Section 34.05.050. Tenant's Remedy of Termination at Any Time.

(a) If there exists any violation of any local statute, code, regulation, or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and the property of which it is a part, the tenant may notify the landlord in writing of the fact; and, if the landlord does not remedy the violation within one week, the tenant may terminate the rental agreement. Such notice need not be given when the condition or violation involved renders a dwelling unit uninhabitable or poses an imminent threat to the health or safety of any occupant. The tenant may not terminate for a violation or condition caused by the want of due care of the tenant, a member of his family, or other person on the premises with his consent.

(b) Such violations shall be determined by the official charged with enforcement of or inspections under the local statute, code, regulation, or ordinance referred to under subsection (a) above. If such official or his duly authorized agent does not inspect or examine the condition alleged in writing by the tenant to be a violation within ten days after receipt of notification in writing, or if there is no such official the tenant may proceed as required in subsection (a) where the condition or violation involved renders the dwelling unit unsafe, unsanitary, untenable, or poses an imminent threat to the health or safety of any occupant.

(c) If the condition or violation under this section was caused willfully or negligently by the landlord, the tenant may recover any damages sustained as a result of the condition

or violation including, but not limited to, reasonable expenditures necessary to obtain adequate substitute housing. Section 34.05.060. Tenant's Remedy of Repair.

(a) If the landlord of an apartment or single family dwelling fails to repair remedy violations of any local statute, code, regulation, or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and the property of which it is a part within two weeks after being notified by the tenant of such violation, the tenant may further notify the landlord of his intention to correct the violation at the landlord's expense and immediately do or have done the necessary work in a workmanlike manner. The tenant may deduct from his rent a reasonable sum, not exceeding two weeks' rent for his expenditures by submitting to the landlord copies of his receipts covering at least the sum deducted.

(b) If the tenant submits a written estimate by a qualified workman at least four weeks before having the work done, and substitutes workmen and materials as the landlord may reasonably request in writing, the tenant may deduct from his rent a reasonable sum not exceeding one month's rent by submitting to the landlord copies of his receipts covering at least the sum deducted.

(c) Where there exists no official or agent charged with enforcement or inspections under such statute, code, regulation or ordinance, or where such or agent does not inspect or examine the condition alleged in writing by the

tenant to be a violation within ten days after receipt of notification in writing, the tenant may proceed under this section where the condition or violation involved renders the dwelling unit unsafe, unsanitary, untenable, or poses an imminent threat to the health or safety of any occupant.

Section 34.05.070. Retaliatory Eviction Prohibited.

(a) In order to insure that dwelling units conform to applicable law in regard to habitability, health, safety, and fitness for use, it is the declared policy of this state to encourage tenants to enforce such applicable law in regard to the dwelling they inhabit.

(b) Any eviction, attempted eviction, increase in rent, or change in conditions or requirements to the detriment of a tenant or tenants, which is caused by, related to, or proximate to any such efforts of a tenant or tenants to correct violations of any applicable local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and the property of which it is a part, is in violation of public policy and is hereby prohibited.

February 2, 1970

Alaska Legal Services
Corporation
111 Fourth Street
Juneau, Alaska 99801

Dear Sir:

The committee has briefly reviewed the proposed bill of tenant rights. The committee sees serious difficulty in applying this bill in the rural areas of the state and the committee is aware that many, if not most, cities have housing codes covering these problems. There may, however, be a need for legislation and the committee would therefore appreciate a memorandum on your experience in this area, including case histories. We would appreciate having this information by February 13, 1970. Further delay beyond this date will make it difficult to enact appropriate legislation in this session.

Very truly yours,

Barry W. Jackson, Chairman

BWJ/mm

DICKERSON REGAN
SUPERVISING ATTORNEY

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION

111 FOURTH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6145

ANCHORAGE OFFICE
WILLIAM H. JACOBS
EXECUTIVE DIRECTOR
425 "G" STREET, SUITE 630

February 12, 1970

Representative Barry W. Jackson
Chairman
House Judiciary Committee
Capitol Building
Juneau, Alaska 99801

Dear Mr. Chairman:

I appreciate this opportunity to submit further information on our proposal for legislation abolishing common law distraint.

I have researched the laws in selected states, but the sampling was limited to about nine or ten states. The best overall comment on the state of existing law follows:

"The courts of this country have never looked with favor upon this form of self-help because of the opportunity afforded for injustice and oppression, and also because it discriminates in favor of one particular class of creditors. For this reason, in a number of states the remedy of distress was held not to be a part of the common law of that jurisdiction. (Cites cases from Alabama, Colorado, Missouri, Montana, North Carolina, Oklahoma). In other states it has been abolished by statute. (Cites 2 Tiffany, Landlord and Tenant, § 325, n. 20 (1912)). In those states where it still exists, it has to a large extent been modified by statute. The general tendency of the statutes is to take away the self-help feature that existed at common law and to vest control over the proceedings in a public official. . . . Furthermore, the list of exempt chattels has been extended in many states to include specific chattels of the tenant himself, which at common law were not exempt. II American Law of Property, A. James Casner, § 9.47 (1952). See also 32 Am. Jur., Landlord and Tenant, § 613.

The State of Washington has provided for a statutory landlord's lien, but with a specific exemption as to the property of a tenant in residential dwellings. Wash. Rev. Code § 60.72.010.

The State of Oregon provides a statutory landlord's lien upon all personal property, except wearing apparel, but retains the self-help feature of the common law remedy. Ore. Rev. Stat. §§ 87.535-87.551.

I was unable to find a statutory landlord's lien in either New York or California, but Am. Jur. and A.L.P. indicate the common law remedy has been abolished by court decision. Interesting enough, California law provides, in a statute dating back several decades, a much broader statute permitting use of rent payments for the repair of dwellings. Calif. Civil Code § 1942.

Other states provide as follows:

Minnesota -- Complete abolition of distraint, with no statutory replacement. Minn. Stat. § 504.01.

Colorado --- Statutory lien, but inapplicable to a rented house. Colo. Rev. Stat. Ann. § 86-1-1.

Illinois --- Statutory distraint provided, but inapplicable to any property exempt from execution. Ill. Rev. Stat. Tit. 80, s 16-35.

Arizona ---- Statutory lien on all tenants property which is not exempt, but permits seizure of all property. Ariz. Rev. Stat. § 33-362.

Alabama ---- Statutory lien broader than common law remedy, primarily for sharecropper of situations. Ala. Code Ann. tit. 31, §§ 29-34.

The Committee has, at this point two choices if it is unwilling to abolish distraint completely. It can provide for a statutory lien, with appropriate judicial enforcement procedures to remove the self-help feature -- or it can provide for abolition of distraint only as to property exempt from execution.

The objective of our clients is attained by either approach, but I would prefer for reasons of legislative economy to follow the latter approach.

Therefore, I have drafted a new proposal which provides that landlords, in the use of common law distraint, may not take or seize exempt property. That bill is attached.

I am available at any time to meet with you or the Committee to discuss this measure, and reiterate my hope that you will see fit to introduce it as a Judiciary Committee bill.

COLLON COLLEGE
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Respectfully submitted,

Philip Byrne

Philip B. Byrne
Deputy Director, Alaska Legal Services Corp.

PBB/fm

Enclosure

Proposed Amendment to A.S. § 34.05.010

Subsection "c" of A.S. 34.05.010 shall hereafter be subsection "d."

A new subsection "c" is added to A.S. 34.05.010 which reads:

"(c) In the use or exercise of the common law remedy for distress of rent, no landlord or lessor of residential property or dwellings may seize, sequester, attach, or keep a tenant from the use or possession of any property exempt from execution or attachment under state or federal law."

COMMENTS OF
ALASKA LEGAL SERVICES CORPORATION
IN SUPPORT OF PROPOSED AMENDMENT TO A.S. 34.05.010

The common law right of the landlord for distress of rent is an ancient doctrine conferring an extra-judicial remedy upon the landlord. Many states and common law countries have recognized this doctrine as giving the landlord the power to hold his tenant's personal belongings as security for unpaid rent. This ancient self-help remedy is now the subject of regulation in many states, and has been abolished in some. The abolition of the common law right for distress of rent has been strongly recommended due to the gross inequities created by its exercise. See Model Residential Landlord-Tenant Code, Tentative Draft Sections 3-403(b) (American Bar Foundation, 1969).

The proposed amendment would abolish this extra-judicial remedy with respect to residential dwellings only. It is in this area that the abuses are most blatant and oppressive. Although the common law doctrine gives the landlord the right to retain his tenant's personal belongings, it does not give the landlord the right to seize the personal belongings or to sell them. Most frequently, a seizure is accomplished by an eviction. The landlord will commonly put a padlock on the door of the house or apartment and refuse to release the tenant's food, clothing, and furniture until the tenant pays the overdue rent. This activity on the part of the landlord would place the burden on the tenant to go into court to

recover his personal belongings. Thus, the person least likely to be familiar with judicial process is forced to initiate the action that would be necessary to determine justice. The Alaska Statutes provide that all or most of an individual's food, clothing, and home furnishings are exempt from levy of attachment or execution. A.S. 9.35.080. Thus, in most instances, the landlord is seizing property to which he has absolutely no right. Furthermore, such an action constitutes an eviction which is not sanctioned by the Alaska Statutes. A.S. 9.45.060-160 and A.S. 9.45.690 provide remedies for the landlord and do not sanction summary evictions..

The proposed amendment in no way limits the landlord's remedies at law. The action of forceable entry and detainer is still available for the purposes of eviction and reduction of accrued rent to judgment. The landlord retains his right at law to attach non-exempt assets.

The Alaska Legal Services Corporation Board of Directors has endorsed this proposal.

HOUSE JOURNAL

Judiciary Committee Report

on

HOUSE BILL NO. 751

This bill seeks to make financing easier for electric and telephone cooperatives. The limited funds available for loans from the federal Rural Electrification Administration require the electric cooperatives to seek supplemental financing in order to provide facilities to meet consumer demands for service. The National Rural Utilities Cooperative Finance Corporation, formed by the electric cooperatives to help solve this problem, is still not adequate to meet the needs of Alaska where present growth is so rapid and demands for electric power so great. It is essential that the cooperatives be able to seek conventional financing when alternate sources are inadequate. The first section of the bill removes the language restricting the board of directors from mortgaging the cooperative's property to secure the cooperative's indebtedness to entities other than the United States and its agencies without the authorization of the members of the cooperative.

The second section of the bill would allow a cooperative to mortgage or encumber "all or a substantial portion of its property" without having the "affirmative vote of not less than a majority" of all of its members. It is believed that the inertia and apathy of most members of cooperatives make it extremely difficult if not impossible to get a majority of the members to respond to a mail vote let alone attend a meeting, especially when considering the number of people involved (over 18,000 are members of the Chugach Electric Association, Inc., for example). Thus, under present law, the flexibility of the board of directors to secure needed funds is severely and unnecessarily restricted. Electric cooperatives with REA loans and mortgages will have to get REA approval of subsequent loans and mortgages, and all electric cooperatives with an annual gross income over \$25,000 are by definition "public utilities" and subject to regulation by the Alaska Public Service Commission; it is believed that these safeguards against unwise borrowing and indiscriminate pledging of credit are adequate to protect the interests of members of the cooperative.

Barry W. Jackson
 Chairman
 House Judiciary Committee

#6751

PHONE 272-4441
AREA CODE 907

WILLIAM J. MORAN
ATTORNEY AT LAW
P. O. BOX 1891
ANCHORAGE, ALASKA 99501

March 13, 1970

Hon. Barry W. Jackson
Chairman, Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99801

Re: House Bill 751

Dear Mr. Chairman:

This letter is written in explanation and support of the subject bill, which was introduced by the House Rules Committee at my request on behalf of the Alaska Rural Electric Cooperative Association. The latter organization is composed of the eleven non-profit electric cooperative membership corporations which are organized and operate subject to the Electric and Telephone Cooperative Act, as amended, AS 10.25. I am the registered legislative counsel and legislative agent, pursuant to AS 24.45.010, of the Alaska Rural Electric Cooperative Association.

The several electric cooperatives in Alaska were organized to participate in the rural electrification programs sponsored by the Federal Government pursuant to the Rural Electrification Act of 1936, as amended. (7 U.S.C.A. §§ 901, et seq.) These programs, administered by the Rural Electrification Administration, commonly known as "REA," consist essentially of loans on favorable terms to finance the purchase and installation of electric generation, transmission, and distribution facilities, and related facilities, in order to furnish central station electric utility service. During the period since 1936, over 1,000 such cooperatives have been organized throughout the several states and their combined facilities serve several million consumers on a non-profit basis. The cooperatives, no less than investor-owned utilities, have been hard pressed to meet the ever increasing demands for electric power and energy. Unfortunately, the appropriations to REA have been static for some years and the applications for loans far exceed the funds available to REA to meet these critical needs. The electric cooperatives must seek supplemental financing.

In recognition of this need for supplementing financing, the electric cooperatives, acting through their National Rural Electric Cooperative Association, established

the National Rural Utilities Cooperative Finance Corporation (known as "CFC") in which the electric cooperatives may hold membership. This corporation will sell its securities in public offerings and has the full support of REA. By subscribing to the corporation's Capital Term Certificates according to a financing formula, the subscribing member is eligible for loans to meet at least a portion of its supplemental financing requirements. For some cooperatives operating in areas of relatively static economic growth and access to adequate power supplies, this supplemental financing may suffice. In Alaska, however, where the need is so very great for additional facilities, and where, in communities dependent upon the electric cooperatives for this vital service, growth is rapid and demand for electric power and energy even greater, it is essential that the cooperatives be likewise able to seek conventional financing when alternate sources are inadequate.

Under the present statute (AS 10.25.390 and 10.25.400), the board of directors of an electric cooperative may execute and deliver a mortgage or other encumbrance on the cooperative's property to secure its indebtedness to REA, but a similar mortgage or encumbrance on a "substantial portion of its property" to secure indebtedness to other than the "United States of America or an agency or instrumentality of it" requires the authorization of an affirmative vote of not less than a majority of all the members of the cooperative. Frankly, the inertia that one encounters in such matters - even apathy - would make it extremely difficult (impossible?) to obtain the approval of a majority of the members of the cooperative, particularly of those cooperatives having a large membership or a substantial membership distributed over a wide area. To quote the most recent statistics immediately available to me - those from the April, 1969, issue of the Northwest Public Power Bulletin, Golden Valley Electric Association, Inc. had 5,422 consumers, Homer Electric Association, Inc. had 3,168, Kodiak Electric Association, Inc. had 1,945 consumers, Matanuska Electric Association, Inc. had 3,610 consumers, and Chugach Electric Association, Inc. had 21,073 consumers. Since I know that Chugach now has 24,000 consumers, i.e. meters in service, serving over 18,000 members, I must assume (1) that the statistics quoted above are probably substantially below current numbers, and (2) that the number of members is probably not much lower than the number of meters served. (I believe that Chugach and Golden Valley have a larger percentage of members being served at multiple locations than the other cooperatives because of the nature of their service areas.) A very special case is the Alaska Village Electric Cooperative, Inc., which was organized to furnish central station electric utility service in the villages of Alaska. Its consumer-members are distributed over wide areas of Alaska; there will be even wider distribution as additional villages are added to the program. In any case, I think you will readily understand that the necessity for having the authorization of a majority of the members - or even having to convene the membership for such purpose - poses a peculiarly difficult problem - if not an insurmountable one - for the cooperative requiring financing

from a source other than the Federal government. (I do not see authority of AS 10.25.120 to vote by mail a solution for reasons already mentioned above. There isn't a meeting facility in Anchorage which could house a majority of Chugach's membership for a meeting, assuming that one had the charm to induce their attendance.)

I know of no good reason for not amending the statute to permit the cooperative's board of directors to contract debt and to execute and deliver such instruments as may be required to secure the payment of such debt, particularly when each such transaction will require the approval of REA in the form of a release of its mortgage interest in the property to be encumbered, inasmuch as the several cooperatives' loan agreements with REA provide that the latter's security interest attaches immediately to after-acquired property upon acquisition - and AS 10.25.420 gives clear effect to such contractual provision.

On occasion, it has been suggested that the similarities - public or quasi-public ownership, for example - between the municipally owned utility and the cooperatively owned utility justify treating the encumbrancing of the latter's property the same as the former's, that is, that since municipal utility revenue bonds must be authorized by a vote of the electorate, indebtedness of cooperatives should similarly require the authorization of their members. But the justification for comparable requirements fails for several reasons, among which one need only cite the fact that the cooperatives are in fact private business corporations and, with respect to their right to effective management authority, entitled to the same consideration as the business corporation organized for profit. Of course, the theory is that municipal revenue bonds are secured only by the revenue of the facility for which authorized, but in effect these bonds are a pledge of the credit of the municipality - and that credit is secured by the property located within the municipal boundaries. Members of the cooperative and their property, on the other hand, are specifically relieved of liability for the debts of the cooperative. (AS 10.25.410) And no municipality is required to obtain a majority of its qualified voters to authorize the issuance of bonds, revenue or otherwise. The regulatory effect of requiring REA approval, and the fact that each of the electric cooperatives is a public utility by definition and subject to regulation by the Alaska Public Service Commission, are further restrictions on unwise borrowing and indiscriminate pledging of cooperative credit.

The Electric and Telephone Cooperative Act (AS 10.25) is substantially a melding of what is contained in two so-called model acts for REA-financed cooperatives offering electric and telephone services, respectively. There was a time when the cooperatives may have needed the statutory requirement of the majority vote of the members in such matters to protect them

March 13, 1970

from the efforts of investor-owned to acquire their facilities and customers via whatever route was available, including the acquisition, by assignment or otherwise, of security rights of a cooperative's creditors in and to its properties. If such threat was ever real elsewhere, it poses no danger in Alaska.

For the foregoing reasons, I urge the Committee's favorable action on House Bill 751 and early attention on the floor of the House, where I hope that I will likewise have your generous and effective support. If circumstances here permit, I will be in Juneau for your Committee meeting on March 18.

What I have said above concerning electric cooperatives applies in general to Alaska's one telephone cooperative, the Matanuska Telephone Association, Inc., except that the prospects of the Congress creating a supplemental financing agency for the telephone cooperatives similar to the Federal Land Bank are promising. Competitive and other considerations in the electric utility industry defeated similar arrangements for the electric cooperatives. However, the Matanuska Telephone Association, Inc. will likewise benefit from a more flexible and realistic statute controlling its management. In these days of limited capital sources and high interest rates - in the face of ever-growing demands for additional investment, we cannot afford to maintain artificial barriers between these vital public services and their access to investment capital. Considering the needs of Alaska, I think that you will agree that our efforts should be directed toward attracting investment rather than discouraging it.

Thank you kindly for your consideration.

Sincerely,



William J. Moran
Legislative Counsel/Agent
Alaska Rural Electric Cooperative
Association

cc: Members, House Judiciary Committee
Hon. Mike Bradner, Chairman, Rules Committee (sponsor)

3/20/70

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 756

In creating a division of recruitment and retention within the Department of Military Affairs, this bill seeks to establish a system of assisting members of the Alaska National Guard in gaining employment for which their training while in military service has qualified them. A pilot program in the field of smokejumping and firefighting has proved the need for the people and the success of such a system. Since most members of the Alaska National Guard live in the more remote areas of the state where there is a high rate of unemployment, this system would provide employment for many people and a regular, meaningful activity for the National Guard.

Barry W. Jackson, Chairman

HB 756

ALASKA NATIONAL GUARD RECRUITMENT AND RETENTION PROGRAM

HB 756 - Division of Recruitment and Retention: This bill is a part of a comprehensive program of the Alaska National Guard Officers Association to follow through with the Recruitment and Retention program. One of the basic concepts is that many of our rural Guardsmen can receive military training which will assist them in gaining employment which fits their background. We need a full-time staff putting these men next to the job opportunities which we know from a pilot program do exist.

This pilot program was to capture approximately 100 smokejumping and fire-fighting aid jobs which are of the semipermanent nature with BLM. The wages would be from \$6,000 to \$9,000. A permanent division is necessary to expand upon this program and add to the same, as well as to ensure that the other portions of our Recruitment and Retention programs are enacted administratively.

ALASKA NATIONAL GUARD OFFICERS ASSOCIATION
ESTIMATED COST OF RECRUITMENT AND RETENTION PROGRAM

INCREASES IN FEDERAL RECEIPTS

Part Timers - Increases:

10% increase in actual number of personnel			
Basic pay x \$1,370,000			\$ 137,000
10% increase in longevity because of longer term guardsmen			<u>137,000</u>
	Total		<u>\$ 274,000</u>
Multiplier Effect of 1	Total	\$548,000	
Multiplier Effect of 2	Total		\$ 852,000

Job Program: Just using the possibility of gaining the semi-permanent smoke-jumper and firefighting aid jobs heretofore going to lower 48 State personnel:

100 jobs with average wage of \$6,000	\$600,000	
Multiplier Effect of 1	<u>600,000</u>	<u>\$1,200,000</u>
Total in these two areas alone		<u><u>\$2,052,000</u></u>

Summary of Cost of Bills Not Through Administration

Education Program		Peak Cost \$ 10,000
Re-enlistment Program		30,000
Retirement Program		60,000
Uniform Allowance & Initial Allowance & Maintenance		<u>130,000</u>
Total Estimated		<u>\$ 230,000</u>

<u>Administration Bills - Recruitment & Retirement Program</u>		<u>30,000</u>
Total Direct Cost		<u><u>\$ 260,000</u></u>

DISTRIBUTION OF ADDITIONAL FEDERAL DOLLARS

	<u>Rural</u>	<u>Urban</u>
Part Timers - Increases:		
10% increase in number of personnel & longevity		
50% of authorized strength 2,500 to 2,600	\$ 426,000	\$ 426,000
Job Program using only 100 BLM jobs plus multiplier effect of 1		
	<u>1,200,000</u>	
Total	<u><u>\$1,626,000</u></u>	<u><u>\$ 426,000</u></u>

Not added are the additional Scout villages which can be programmed into the seasonal firefighting. In addition, providing to the Scouts the BLM firefighting training program would result in a step increase in pay.

Not included are other Federal agency jobs that are not now utilizing villagers for seasonal, semi-permanent and permanent jobs, much of which goes to lower 48 people. These jobs can be captured with the full time staff of the Recruitment and Retention Branch.

DISTRIBUTION OF ADDITIONAL STATE DOLLARS

	<u>Rural</u>	<u>Urban *</u>
Education Program	\$ 2,000	\$ 8,000
Re-Enlistment Program	18,000	12,000
Retirement Program	36,000	24,000
Uniform Allowance	<u>65,000</u>	<u>65,000</u>
Total	<u>\$ 121,000</u>	<u>\$ 109,000</u>
Recruitment & Retirement Branch		30,000
Total	<u><u>\$ 121,000</u></u>	<u><u>\$ 139,000</u></u>

* Majority of jobs in Anchorage

The Honorable Mildred Banfield
House of Representatives
State of Alaska

COMMENTS ON HOUSE BILL 756

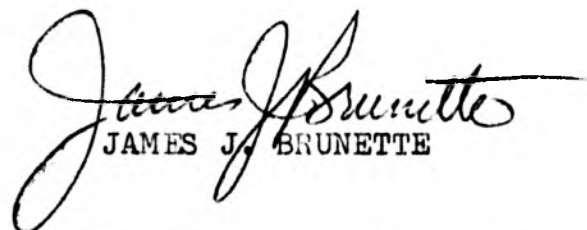
The largest number of National Guardsmen live in remote areas outside of normal communications relating to employment. Also many recruitment bulletins require a minimum of high school education for any employment consideration.

Many guardsmen lack education but have skill in mechanics, electronics and other less technical positions and are still unemployed simply because they are not aware of vacancies.

The National Guard has several capabilities that can be used to assist these guardsmen in obtaining employment such as, personnel records showing abilities of each individual, a radio network to 63 villages for reporting when employees are needed, and the Air Guard (100% federally funded) to provide transportation to employment areas.

This bill would place a full time in the office of the Adjutant General to evaluate the potential of unemployed guardsmen and match them with state and federal recruitment bulletins then notify the guardsmen that such vacancies exist and provide transportation.

A pilot program in firefighting shows that we could expect a minimum of 100 guardsmen to obtain employment thereby reducing the cost of welfare in villages but mainly giving prestige and dignity to the members affected.


JAMES J. BRUNETTE

Recruitment and Retention Activities
January 1970 - June 30, 1970
Preliminary Steps Prior to Launching Expanded Program

ACTIONS NEEDED WHILE SCOUTS IN CAMP:

Six month's or semi-permanent BLM jobs, smokejumpers, firefighting aids.

1. Coordinate with Len Nelson to complete coverage of smokejumpers for those that may be qualified for jobs in 1970.

2. Prepare Federal application forms on others who may be qualified for the 1971 season in rough. Explain the program to the EM or officers concerned. Do not fill in the type of position. This form may also be used for other applications or other positions.

3. Fill out applications for State employment.

4. Prepare seasonal firefighting callup plan. Start dialogue with firefighting personnel of BLM (Messrs. Richardson and Tank) concerning getting all Scout villages on the seasonal callup on a priority basis.

a. Utilize officer in 38th Detachment now working in BLM communications.

b. Determine transportation capacity of Air Guard and Army Guard to assist BLM.

c. Arrange that when a Scout village is picked up that not only the Scouts but unemployed civilians in that village can be employed. Pay to start when they depart on Army or Air Guard planes. Procedure for signing people up in the villages for BLM should be worked out.

d. Orientation program for all village NCOs and members concerning the seasonal callup plan. Determine whether or not firefighting training course is being extended to these village Scouts -- make sure they get the course.

STATEWIDE GUARD -- RECRUITMENT AND RETENTION

1. Send an order down to all Unit Commanders for an inventory by name of unemployed Guardsmen. Get State and Federal application forms on same completed in order to evaluate possibilities for employment.

2. Get on Division of Personnel's mailing list for bulletins for openings.

3. Obtain information on all seasonal jobs from State Departments.

4. Work with hiring personnel of the various State Departments.

5. Get on list for Civil Service Bulletins.

6. Coordinate with hiring personnel of the military bases throughout State.

7. Get information on seasonal jobs, field jobs (Example: BLM cadastral eng.)

8. FAA. Isolated assignment type of work. Determine how we can input our Scouts or Guardsmen into the FAA program. Note that much of the work should fall into the Air Guard type of qualifications. A list of FAA stations, turnover information and qualifications helpful.

1003 B Street
Juneau, Alaska 99801
March 16, 1970
(Telephone: 586-3334)

MEMORANDUM

To: Representative Mildred Banfield
From: Rev. Dr. Walter A. Soboleff *W.A.S.*
Subject: Alaska National Guard Recruitment, Retention and Retirement Program

Figuratively speaking, for an orderly development of this State to be brought about, an awareness of its many facets must be expressed by those with concern and foresight. Where there develops an awareness of the need for natural conservation and economic use of resources, we are obliged to survey and recommend measures reflecting the best interests of our State's greatest resource, its people.

Not since the development of air travel in Alaska has there been an impact so profound as the coming of the Alaska National Guard to approximately seventy communities throughout Alaska. Under capable leadership, the influence upon these areas continues to have a lasting value in terms of health, recreation, morale, and adult education. In the past, under professional guidance and adequate funding, qualified youth have varied opportunities to attend military schools and return home for positions of leadership in the community.

But, the Alaska National Guard has not reached its greatest potential for development of human resources. It is not at present satisfactorily involving the lower income segment of our society since many of these people cannot afford to engage in activities which fail to provide adequate pay for services and expenses involved. The youth that the National Guard can help most are not joining. This is true in both rural and urban Alaska. For those who do enlist to meet their mandatory military obligations, the pay and other benefits are such that further sacrifice of time on the part of the individual and his family is necessary. Consequently, re-enlistments are few. This is a waste of human resources.

The Alaska National Guard Officers' Association's Recruitment, Retention and Retirement Program is designed to boost the morale, pay and benefits and provide recognition to this citizen soldier who also provides a standby public safety and emergency force for the State.

I have participated in the inventory of the enlisted men's opinions and recommendations for building a more effective Alaska National Guard. These bills before you are reflections of what these men feel are necessary to keep them in the Guard and attract others. Thus the organization will accrue the greater gains of education and training of the individuals who re-enlist.

I urge you to favorably consider and vote for the following bills which make up the comprehensive program:

House Bills

- 83 Qualifications of Assistant Adjutant Generals (in Senate)
- 649 Appropriation for the Recruitment, Retention and Retirement Program
- 753 State Pay - Emergencies
- 754 Retirement and Death Benefits
- 755 Educational Assistance - Alaska Guardsmen
- 756 Recruitment and Retention Division, Department of Military Affairs
- 757 Re-enlistment Bonus
- 758 Uniform and Maintenance Allowances

Senate Bills

- 380 Retirement and Death Benefits
- 472 Military Leave State Employees
- 514 Suspension of Civil Liabilities
- 515 National Guard Registration Plates
- 516 Free Ferry Trip - Space Available Basis
- 517 National Guard Preference State Hire
- 518 National Guardsmen Qualifying for Veterans Loan Program
- 519 Alaska National Guardsmen Qualifying for Veterans Public Loan Preference

*and
to
Rep. Jackson*

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 762

This bill allows for the establishment of the position of coroner/public administrator in each judicial district. With the approval of the supreme court, the presiding judge of the superior court in a district may appoint the public administrator. The primary duty of this person will be to administer the estates of deceased persons when administration is required by law and when no other person entitled to administer a particular deceased person's estate has been issued letters testamentary or letters of administration within 30 days after the death. He will also perform the duties of coroner set out in AS 22.15.110.

Presently the law requires district judges to perform these non-judicial duties, and a great amount of time is spent on them. This bill will free these judges for their appropriate judicial functions. The bill is strongly supported by the Alaska Supreme Court and the Alaska Judicial Council.

Barry W. Jackson, Chairman

Coroners

HB-762

File

Miss Judson
Compendium

February 24, 1969

Mr. Thomas Schulz, President
Juneau Bar Association
319 Seward Street
Juneau, Alaska

Dear Mr. Schulz:

I am enclosing herewith the Fifth Report, namely the report for 1967-68, of the Alaska Judicial Council.

I also am enclosing suggested language prepared by the Council and submitted to the legislature which would provide for appellate review of sentences.

Also enclosed is a copy of a bill prepared by the Legislative Affairs Agency, although not yet introduced, relating to the duties of coroner and conservator of decedent's effects. For quite some time the Council considered the desirability of transferring the functions of the district and deputy magistrates when investigating the death of a deceased person, and inventorying and conserving the assets of a decedent's estate, out of the jurisdiction of the district judges to the Department of Public Safety. Within the Department of Public Safety would be created the office with a position of coroner to perform these duties. I alone among the Council members dissented to this proposed legislation, not on the grounds that I was opposed to the transfer of functions but on the grounds that I felt that there should be some safeguards built into the statutes protecting the rights and privacies of individuals.

Under the proposed legislation the Commissioner of Public Safety names the coroners in each judicial district and, in addition, has the authority to designate a state trooper or any other personnel of his department as deputy coroner. In my opinion the sleeper in the bill

Mr. Thomas Schulz
February 24, 1969
Page 2

as proposed is Section 6, which without restriction would authorize a policeman to take custody and control and preserve the property and the estate of deceased persons until a legal custodian is appointed. Under the way the proposed bill is worded a policeman being appointed deputy coroner could search the premises of the deceased under the guise of inventorying, taking custody and control, and preserving the deceased's property. This means, for example, that if a child in the City of Juneau or the City of Anchorage, or any other populated area, died in a hospital surrounded by his parents, brothers, sisters, aunts and uncles, etc., the police would still have the authority to enter the family home and search the home for the purpose of taking custody and control of the deceased child's estate. The same would apply to the death of a spouse living in Alaska but dying in the south forty-eight. The Alaska dwelling of the deceased person could be searched by the police, notwithstanding the fact that it was occupied by the family of the deceased.

While I can understand the rationale behind the proposition that someone has to conserve and preserve the estates of decedents who die out in unpopulated areas such as a trapper in his cabin, fifty miles from nowhere, or in a village or small community having no administrative or law enforcement agency, I don't believe that such reasoning applies to populated areas.

I submit the foregoing for consideration of the Juneau Bar Association. While the proposed bill has not yet been introduced, I anticipate that it will be introduced this session.

Very truly yours,

F. M. Doogan, Member
Alaska Judicial Council

Enclosures
FMD:pdg

cc: The Honorable Buell A. Nesbett
Senators Rader, Josephson, Engstrom,
Merdes and Ziegler
Representatives Cornelius, Croft, Guess,
Kay, McVeigh, Jackson and E. Miller

HB 767

File

LAW OFFICES OF
FAULKNER, BANFIELD, BOOCHEVER & DOOGAN
ROOM 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

HERBERT L. FAULKNER
NORMAN C. BANFIELD
ROBERT BOOCHEVER
FRANK M. DOOGAN
DONALD L. CRADDICK
AVRUM M. GROSS
MICHAEL M. HOLMES

TEL. 586-2210
AREA CODE 907

March 4, 1970

The Honorable Barry W. Jackson
Chairman, Judiciary Committee
House of Representatives
State of Alaska
Juneau, Alaska 99801

Re: H.B. No. 767 - Destruction of
Records of Motor Vehicle Violations

Dear Mr. Chairman:

As a representative of American Mutual Insurance Alliance I am concerned with House Bill No. 767 which states that all records held by state and local officials disclosing a violation of Sections 28.15.170 and 28.15.280 shall be destroyed three years after the violation.

This legislation is poorly drafted because the Sections referred to cannot be violated by a motor vehicle driver. These sections confer authority on the Department to cancel or suspend licenses if the license was improperly obtained or a court orders such suspension or cancellation. The only persons who can violate these sections are the employees of the Department who are required to administer them.

I do not think any serious harm would be done if the records of the Department of Revenue which are more than three years old are the only records which are to be destroyed but I cannot imagine the legislature requiring that either the records of the courts or the records of the Department of Public Safety or any municipality be destroyed. The records of the Department of Public Safety are particularly valuable in connection with police investigations.

I do not know who requested the bill to be introduced or what reasons there are for introducing it but I suspect the author wants to make it impossible for the courts and other public officials to be influenced by driving violations more than three years old. I do not think this is advisable. If a person gets drunk and is convicted of manslaughter as a result of drunken driving, I do not think the records should be destroyed after a period of three years and the same is

The Honorable Barry W. Jackson
House of Representatives
Juneau, Alaska

March 4, 1970
Page Two

true of any other criminal violation. My principal concern is with respect to the proper rating of insured drivers. Generally speaking, companies want to consider records for a period of at least five years and sometimes longer in order that they can rate each person justly for premium purposes.

I am sending a carbon copy of this letter to the Alliance which will constitute a request for its opinion and policy in this matter, and I will write to you again as soon as I receive an answer. In the meantime I would like to be informed in advance of the time of any consideration of this bill and be permitted to appear in opposition to it.

Yours very truly,


N. C. Banfield

NCB:db

cc: Chas. A. Brown
James S. Stickles
F. O. Eastaugh

ROBERTSON, MONAGLE, EASTAUGH, ANNIS & BRADLEY

R. E. ROBERTSON (1885-1981)
M. E. MONAGLE
F. O. EASTAUGH
R. J. ANNIS
J. B. BRADLEY
W. G. RUDDY
T. P. BLANTON
L. B. JACOBSON

ATTORNEYS AT LAW
P. O. BOX 1211
JUNEAU, ALASKA 99801

March 16, 1970

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

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Capitol Building
Juneau

Re: House Bill No. 767

Dear Chairman Jackson:

Thank you for your notice that the House Judiciary Committee will hear representations regarding the subject bill this afternoon at its regular 4:00 P. M. meeting. I am writing this memo on the subject as suggested and submit it in lieu of an appearance because of a conflicting meeting at that time.

The bill itself would result in the destruction of motor vehicle violation records kept in the Department of Public Safety under the provisions of Article 2, Chapter 15, Title 28, Alaska Statutes, after three years.

It is my understanding that Alaska by virtue of certain interstate compacts reciprocates with other states with respect to driving records of individuals who seek to be licensed to operate motor vehicles. Such records would have a bearing on insurance matters such as rating drivers according to experience. More important is their relation to criminal violations, or the absence of criminal violations, associated with motor vehicle operation. With the prospect of many new residents in Alaska, I suggest the importance of our State officials being advised of their previous driving records.

Insofar as insurance matters are concerned, there have very infrequently been reports of unfair rating of insurance applicants because of a stale violation of perhaps 3 to 5 years past and perhaps even 10 years. Such sanctions are not favored by the American Insurance Association and do not have its approval.

From time to time insurers and insurance associations

The Honorable Barry W. Jackson
Page 2
March 16, 1970

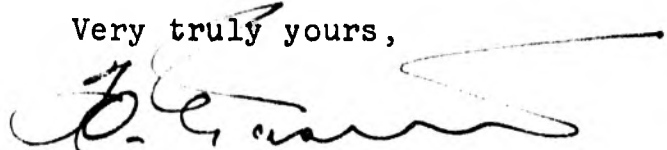
have encouraged and entered into such group efforts as safe driver plans and have encouraged and paid for analyses of driver accidents in the attempt to obtain meaningful statistics with respect to the more important general subject of better highway safety in the interests of the motoring public. The results of the California study show that the driver with a previous history of moving violations is more apt to be involved in a subsequent accident than the driver with a clear record. This bill would in effect destroy "good records" as well as bad ones.

Aside from the value of these records from an insurance standpoint I suggest that there is a greater public interest in the existence and maintenance of such records from the possible connection of criminal violations involved with motor vehicle violations. The importance of a record of a vehicle failing to stop at a stopsign is not essentially important by itself, but the fact that the driver may have been under the influence of drugs or under the influence of liquor at that time is a matter of legitimate public concern.

I have talked with judges involved in sentencing, and think it fair that they have the whole record before them, so the first offender may be treated more leniently than the habitual offender.

In view of the above considerations, I am authorized to state the opposition of the American Insurance Association to the enactment of the subject bill.

Very truly yours,



FOE:bh

F. O. Eastaugh

MEMORANDUM**State of Alaska**

TO: Representative Irwin L. Metcalf
House of Representatives

FROM: Commissioner Mel J. Personett
Department of Public Safety

DATE : March 16, 1970

SUBJECT: HB 767

File
Xerox 10
Copies

In addition to the obvious mistaken section references contained in this bill as outlined in my earlier memorandum, I submit the following comments concerning the possible intent of this bill.

If the bill is intended to prevent cancellation of insurance or higher premiums based upon an insurance company's request for a driver's record, you should be aware of the present procedure.

We currently disregard any conviction of OMVI, reckless driving, negligent driving or other serious violations which occurred five years or more prior to the request. All other driving convictions are disregarded if they occurred three years or more prior to the request.

Also, if the intent is based upon use by the insurance company, I question the need to "destroy" the records since they do have a great deal of bearing on the individual's demonstrated driving habits and under AS 28.15.220(b)(3) and (4) may be considered by the courts when imposing license restrictions at the time of conviction.

One must also consider what will occur when you have a situation wherein a person is convicted for a third offense of OMVI or reckless driving and his license is revoked for three years. He would be starting out with a clear record at the end of his revocation and would be able to be convicted several more times before any serious remedial action could be taken.

It would also be possible for a person to be convicted many, many times for OMVI and never show any past convictions, depending upon the time lapse between offenses.

I seriously question whether this bill will provide any great benefit to the vast majority of citizens, but it will unquestionably be quite beneficial to that 9% to 10% of drivers who cause the greatest concern for the traffic safety of the majority of drivers.

3/31/70

HOUSE JOURNAL

Judiciary Committee Report

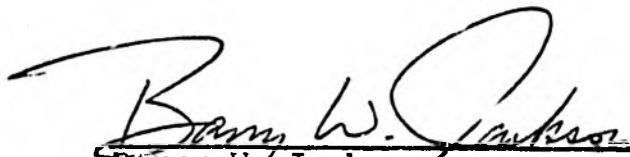
on

CS for HOUSE BILL NO. 776

Taking into account the fact that Alaskan courts have interpreted the prohibition of AS 11.15.060 against criminal abortions as not applying to the artificial interruption of a pregnancy before the quickening of the fetus, this bill prohibits all abortions by persons other than physicians licensed in this state and it treats abortions by these licensed physicians as a matter of the practice of medicine.

The committee substitute adds a section to the physician's licensure chapter and makes clear that this is a matter of medical practice. This new section sets out certain requirements: the physician must be licensed; the woman's consent must be knowledgeable; she must be a domiciliary of the state or physically present in the state for at least 60 days immediately before the abortion, as evidenced by her affidavit; the abortion must be performed in a facility which conforms to acceptable standards of organized medicine and hospitals; and, if the woman is an unmarried minor, the consent of her parent or guardian or the Department of Health and Welfare is required. The inclusion of guardian and the department is intended to cover those cases in which the department or a guardian has legal custody of the minor, or in which the parents are dead or have abandoned her, or in which she is an emancipated minor.

The committee notes with approval and attaches to this report a memorandum by Legislative Counsel Hayden Kaden, dealing with current abortion law in Alaska and other states.



Barry W. Jackson
Chairman
House Judiciary Committee

AB 776

JOHN A. PENNINGTON, M.D.
Anesthesiologist

5003 Cambridge Way
ANCHORAGE, ALASKA 99502
Phone: 279-2612

American Board of Anesthesiology
American College of Anesthesiologists

Representative William L. Hensley
Chairman, House Health, Welfare &
Education Committee

February 16, 1970

Pouch V
Juneau, Alaska 99801

Dear Representative Hensley:

Enclosed you will find a possible substitute bill I suggest to replace measures for abortion law reform presently before committees of both houses of the Legislature. This is a possible compromise measure which incorporates many of the safeguards indicated as desirable during a recent hearing by the Senate Judiciary Sub-Committee in Anchorage, while minimizing unnecessary interference with the practice of medicine.

I also enclose a copy of a statement recently drafted for possible publication, for whatever value you and your committee might obtain therefrom.

These enclosures represent my personal convictions and are not issued on behalf of the Alaska State Medical Association.

Respectfully yours,

John A. Pennington, MD
John A. Pennington, MD

February 16, 1970

Dear Editor:

This letter is addressed to the abortions law reform question. The recent Senate Judiciary Sub-Committee hearing was educational for me, for it indicated several areas of legitimate concern by both lay public and other physicians. The following are my personal views as a physician who encounters this problem in my own practice; I do not speak here as a representative of the Alaska State Medical Association, although I believe our opinions are frequently parallel.

These considerations seem relevant to me:

1. Abortion presently is commonplace in our society. Few knowledgeable proponents of reform expect a liberalized statute to entirely eliminate illicit abortion with its burden of venality, guilt, morbidity, and death. Elimination of any of this scourge, however, would at least be a step forward.
2. A woman has the constitutionally protected rights of person and private conscience to determine whether to continue a pregnancy. This doctrine, like it or not, has been affirmed by judicial decisions. In the near future most present state abortion laws, including Alaska's, will probably be struck down by the courts for unjustified limitation of these rights. Still to be defined in Alaska by legislative act and/or judicial decree are those areas where personal liberty and the legitimate interests of the state intersect. The state indisputably has the duty to suppress illicit abortion with its attendant hazards to both Society and the individual woman; ethical physicians urge this regulation. The state also might properly and wisely require that abortion be performed only in an adequate hospital by a qualified practitioner of medicine after appropriate consultation and appropriate delay to allow reconsideration by the woman. Individuals may differ on the stringency of these safeguards, but the differences are open to compromise.
3. Abortion is repugnant to most physicians; we are dedicated to the preservation of meaningful life. The need for artificial termination of a pregnancy usually results from failure to either prevent or protect that pregnancy. There are definite medical indications for therapeutic abortion--diseases of mother or fetus--which could not be anticipated prior to conception, but these are uncommon. More frequently, abortion is thought to be the only remaining solution for unwanted pregnancies arising from potentially avoidable defects in society, the mother-to-be, or the fetus. To prevent a need for this solution, physicians actively support family planning programs, adolescent sex education, marital counselling, suppression of sex crime, child aid measures, eradication of intrauterine diseases, facilities for unwed mothers, and supportive care for women with undesired pregnancies who might be so aided as to eschew abortions. Unfortunately, until such measures are more generally available and effective, "...abortion is often the best (though an unhappy) solution."
4. In my opinion legal abortion would be unacceptable for the primary purpose of population control, urgent though that may be. Abortion is successfully promoted for this purpose in some countries, but the concept is alien to most Americans. I am unacquainted with any Alaskan physicians who would abort a woman on a casual repetitive basis as a consequence of her repeated unconcern with avoidance of conception or for the sole purpose of limiting population. We do not seek a situation where legal abortion is available "by demand".

5. Whether abortion is or is not morally acceptable is entirely subjective depending on one's ethical and religious beliefs. The crux of this argument is the stage in fetal development at which the conceptus is considered a human being with the soul, inherent rights, and protections thereof. This time has been variously held to be from the instant of conception onward to parturition when the fetus assumes independent existence as an infant, with various points in between. Obviously this basically is a theological, not medical, question; consequently, consensus will never be achieved. All shades of personal belief can exist on this question without clear-cut adverse effect to the public welfare so long as mutual toleration prevails. By recognizing the existence of non-illicit abortion and formulating reasonable regulations for its safe practice, the state takes no more of a partisan moral position than it does regarding the use of alcohol, for example, by licensing the sale of liquor. I believe it inappropriate and unconstitutional for the state to impose by law an essentially religious doctrine in an area where there is no consensus of belief, no clearly overriding public interest, and where private conscience should prevail. Scrupulous non-interference by the state offers the only ultimate protection to all that cherished, though conflicting, religious and ethical doctrines will remain inviolable for each to follow as his faith and conscience dictates.

The battle is joined; this issue will not just fade away. Those minorities holding opposing extreme positions have clearly and vociferously stated their respective cases, and they are irreconcilable. Hopefully, a large, if "silent" majority of our electorate exists which may promote measures not simply to legalize appropriately regulated abortion, but also measures to minimize the necessity for resort to abortion as a solution. I would urge such people to communicate with our state legislators---they need your views and support now as never before.

Sincerely,

John A. Pennington, MD

IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTH LEGISLATURE*- SECOND SESSION
A BILL

For an Act entitled: "An Act relating to abortion."

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

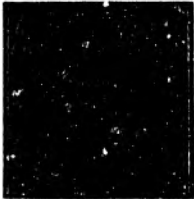
*Section 1. AS11.15.060 is repealed and re-enacted to read:

Sec. 11.15.060. ABORTION. (a) A person, not a physician, who provides to a woman, or procures a woman to take, a drug, medicine, or substance, or uses any instrument or other means whatever upon a woman with intent to induce an abortion of a woman is punishable by imprisonment for not less than one year not more than five years. For purposes of this section it shall not be necessary to prove that the woman was in fact pregnant, nor that an artificial interruption of pregnancy occurred.

(b) The artificial interruption of pregnancy by a qualified and licensed practitioner of medicine is a matter of the practice of medicine and not prohibited by criminal law if the pregnant woman has been consulted and consents, if the abortion is performed in a licensed hospital which conforms to standards of hospital accreditation approved by the Joint Commission on Accreditation of Hospitals, if at least two other licensed and qualified physicians consult with the woman and concur with the decision to abort, and if, in a non-emergency case, a period of at least 72 hours will transpire between the time of the request for the operation and the time of the operation.

(c) Nothing in this section shall be construed as requiring a pregnant woman to consent to abortion, a hospital to permit an abortion on its premises, or a physician to perform or consult on the performance of an abortion.

File HB 776



**LASKA STATE
MEDICAL ASSOCIATION**

519 WEST EIGHTH AVENUE ANCHORAGE, ALASKA 99501 TELEPHONE 277-6891

March 27, 1970

The Honorable Barry W. Jackson
Alaska House of Representatives
Pouch "V"
Juneau, Alaska 99801

Dear Representative Jackson:

As you know, the Alaska State Medical Association is still hopeful for enactment of a liberal abortion law or repeal of the present statute.

H. B. 776 would be satisfactory but we recommend deletion of the wording "after consultation with her husband if married". This phrase would drive certain women to criminal abortionists. For example, the illicitly pregnant wife of a military man overseas, or for that matter the adulterously pregnant wife of a man not overseas, only added marital discord might be produced if the husband has to be consulted. In any event, the phrase is out of order because a woman is not required to consult her husband about other surgery, such as hysterectomy or appendectomy (though fortunately she usually does). A woman should have sole right as to decision about abortion if the doctor concurs that it is the best solution to her problem.

You may be interested in the editorial support for liberalized abortion laws by the Wall Street Journal.

Thank you for your continued attention to this matter.

Sincerely yours,

Robert Kodman Wilson, Jr., M.D.
Robert Kodman Wilson, Jr., M.D.
Chairman
Legislative Committee

JRW:ch
Attachment

REVIEW and OUTLOOK

Repealing Abortion Laws

A growing number of Americans are coming to the conclusion that the best reform of abortion laws is outright repeal, and the state of Hawaii has already acted on that promise.

It is a rather remarkable turnaround. Only a couple of years ago no one would think that anything so "radical" as a repeal proposal would have any chance at all. Yet today several states have liberalized their laws and one house of the New York State legislature this week approved what would amount to Hawaii-like repeal.

The changing attitude is not, in our opinion, just one more manifestation of the new permissiveness of the times. On the contrary, it attests to a greater awareness of the anguish suffered by the victims of the harsh laws that remain on the books.

The objections to repealing abortion laws have by no means, of course, been completely stilled.

Abortion is anathema to certain religions, and while they have every right to their views, they have no right to impose their views on the society at large. Legalizing abortion obviously does not require Roman Catholics or anyone else to practice it; they are as free as ever to shun it and indeed to denounce it.

Some contend that legal abortion would aggravate the sexual latitude of the age. We doubt it. Presumably no one wants an abortion if there is a better choice, and as it is the number of illegal abortions is appallingly high, taking abortion out of the legal realm altogether might therefore not mean any significant increase in the total number of the operations.

Then there is the objection on the ground of moral philosophy: That abortion is the taking of human life. One answer to it is that no consensus, let alone proof, exists among medical practitioners or moralists. The fact is that many doctors would long since have been performing abortions had it been legal to do so.

For our layman's part, we find it particularly hard to accept that the embryo (first three months of pregnancy) is a human being in any real sense; we incline to the thesis that it is

still part of the mother, manifestly incapable of independent existence.

Against these objections, the arguments for repeal seem far more persuasive.

First is that it is simply humanitarian. We have mentioned the suffering of the victims. It involves the degradation, humiliation and mental strain imposed by unwanted pregnancy and the effort to remedy it. A civilized society should not have such draconian laws, although it certainly can and should require that abortions be performed by licensed physicians under sanitary conditions.

Probably legalizing abortion would not be a significant population-control measure in this country (it has been highly effective in Japan). However, it fits in with the new concern—even apprehension—that unless population is controlled, the nation will in no too distant future be so inundated that decent living conditions will be impossible.

In addition, the question of how many children should be up to the discretion of the woman or the husband and wife as the case may be. Generally speaking they have that right now—they do not have to have any children if they do not want to—and the right, it seems to us, should include the possibility of terminating an unwanted pregnancy.

To put it another way, this is an area where government has no necessary or appropriate function. These severe laws go back to a time and a mentality in which the State assumed it should closely regulate people's private lives; the statutes are, or are analogous to, sumptuary laws. We do not think they accord well with the concept of individual liberty.

Needless to say, there are still other areas where the State's intrusion is questionable. As a broad criterion in such matters, we believe that where the situation is truly private—that is, where the conduct of the individual or couple or family does not impinge on society or hurt anyone—government should refrain from intervention.

For whatever it is worth, it seems to us that abortion, unhappy though it be at best, belongs in that category.

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska

March 3, 1970

The Honorable Barry W. Jackson
Chairman
Judiciary Committee
Alaska State House of Representatives
Juneau, Alaska 99801

Re: Proposed bill to amend work
release program

Dear Representative Jackson:

This letter is to set forth the distinctions between the Department of Health and Welfare's suggested amendments to the work furlough program and the amendments I have suggested. The department would not permit persons who have been convicted of a violent crime or who have a history of violent or assaultive behavior to be eligible for work release until one-third of their sentence is served.

From observation many convictions involving violent crimes relate directly to the consumption of alcohol. A person with a history of assaultive behavior relating to the use of alcohol profits greatly from the work release program, he can begin to develop good work habits without the interference of alcohol. Further, the alcohol related offender in many instances has a family and the work release program permits him to contribute to the support of his family and himself.

A further problem faced by the correctional system and the state is providing a secure institutional setting with its great costs for persons who, when not under the influence of alcohol, are capable of living in an unguarded manner. Presently, the jail in Anchorage may be filled to over capacity with prisoners, many of whom could be living as successfully in a half-way house environment, where the only contact with the prison would be daily or less frequent meetings with the institutional probation officer. The proposed rehabilitation furlough bill would authorize the Commissioner of Health and Welfare to permit prisoners to reside outside of the prison, e.g., in the Salvation Army dormitory or other non-state contracted institutions.

H-3 781

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee

March 3, 1970

-2-

The department's proposed amendments do not grant as much authority to the Commissioner of Health and Welfare to develop programs for the rehabilitation of prisoners as the suggested amendments of the undersigned. A large measure of flexibility to provide individualized programs appears to be needed. The department only goes part way in seeking this flexibility.

Very truly yours,



VICTOR D. CARLSON
Public Defender

VDC:rj

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouch AE, Juneau, Alaska
99801

February 27, 1970

The Honorable Barry W. Jackson
Chairman
Judiciary Committee
Alaska State House of Representatives
Juneau, Alaska 99801

Re: Proposed amendment to AS 33.30.250,
Rehabilitation Furlough

Dear Representative Jackson:

This letter relates to the memorandum from Charles G. Adams, Jr., Director, Division of Corrections, dated February 17, 1970 proposing amendments to the work furlough program. Attached is a proposed bill to accomplish the amendments requested by Mr. Adams and, in addition, to make the furlough program a better tool to aid the prisoner's rehabilitation.

From the undersigned's experience it is apparent many of the prisoners in state correctional institutions are involved with alcohol related offenses. In certain instances these alcohol related offenses are violent crimes, e.g., cutting with intent to wound, assault with a dangerous weapon, assault and battery, the law presently prohibits work furlough for these prisoners. It is the alcohol related offender who profits greatly from work releases.

A further problem faced by the correctional system and the state is providing a secure institutional setting with its great costs for persons who, when not under the influence of alcohol, are capable of living in an unguarded manner. Presently, the jail in Anchorage may be filled to over capacity with prisoners, many of whom could be living as successfully in a half-way house environment, where the only contact with the prison would be daily or less frequent meetings with the institutional probation officer. The proposed rehabilitation furlough bill would authorize the Commissioner of Health and Welfare to permit prisoners to reside outside of the prison, e.g., in the Salvation Army dormitory or other non-state contracted institution.

In summary, the proposed bill is submitted as a step in the direction of giving the Commissioner of Health and

HB 781

The Honorable Barry W. Jackson
Chairman, House Judiciary Committee

February 27, 1970
-2-

Welfare the latitude he needs to implement the provision of
Section 12, Article 1, Constitution of Alaska:

"Penal administration shall be based on the
principle of reformation and upon the need for
protecting the public."

If you or the members of your committee have questions
concerning the proposed-bill, I am prepared to furnish addi-
tional information.

Very truly yours,



VICTOR D. CARLSON
Public Defender

VDC:rj

Enc.

cc: Arthur H. Peterson
Revisor of Statutes
Legislative Affairs Agency

Charles G. Adams, Jr.
Director
Division of Corrections

1 IN THE

2 BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rehabilitation fur-
7 loughs."

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

9 * Section 1. AS 33.30.250 is repealed and re-enacted to read:

10 Sec. 33.30.250. REHABILITATION FURLOUGH. (a) When
11 a person is awaiting trial or is convicted of a crime and
12 is sentenced to a prison facility, or is imprisoned in the
13 prison facility for nonpayment of a fine, for contempt, or
14 as a condition of probation for a criminal offense, the
15 commissioner may, if he concludes that the person is a fit
16 subject for a rehabilitation furlough direct that the person
17 be allowed to continue in his regular employment, may author-
18 ize the person to secure employment for himself, participate
19 in educational, training, medical, psychiatric, or other
20 rehabilitation programs approved by the commissioner.

21 (b) If the commissioner directs that the prisoner be
22 permitted to continue in his regular employment, the com-
23 missioner shall arrange for a continuation of the employment
24 so far as possible without interruption. If the prisoner
25 does not have regular employment, and the commissioner has
26 authorized the prisoner to secure employment for himself,
27 the prisoner may do so, and the commissioner may assist him
28 in doing so. Any employment secured must be suitable for
29 the prisoner. The employment must be in accordance with the

1 prevailing working conditions and wages in the area. No em-
2 ployment may be permitted where there is a labor dispute
3 in the establishment in which the prisoner is, or is to be,
4 employed.

5 (c) Whenever the prisoner is not involved in the re-
6 habilitation program, he shall be confined in the jail unless
7 the commissioner directs otherwise.

8 (d) The earnings of the prisoner shall be collected by
9 the commissioner and the prisoner's employer shall transmit
10 the wages to the commissioner at the commissioner's request.
11 Earnings levied upon under a writ of attachment or execution
12 or in other lawful manner may not be transmitted to the
13 commissioner. If the commissioner has requested transmittal
14 of earnings before the levy, the request shall have priority
15 for those earnings due and payable at that time. When an
16 employer transmits the earnings to the commissioner, he has
17 no liability to the prisoner for the earnings. From the
18 earnings, the commissioner shall pay the prisoner's board and
19 personal expenses, both inside and outside the prison faci-
20 lity, and shall deduct so much of the costs of administra-
21 tion of this section as is allocable to the prisoner, and, in
22 an amount determined by the commissioner, shall pay the
23 support of the prisoner's dependents, if any. If sufficient
24 funds are available after making the foregoing payments, the
25 commissioner may, with the consent of the prisoner, pay, in
26 whole or in part, the pre-existing debts of the prisoner.
27 Any balance shall be retained by the commissioner and paid
28 to the prisoner at the time of his discharge.

29 (e) If the prisoner violates the conditions established

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for his conduct, custody, or employment, the commissioner may order the balance of the prisoner's sentence to be spent in actual confinement.

(f) The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section, is an escape from the place of confinement and is punishable under the laws relating to escape.

(g) A rehabilitation furlough for employment may not be authorized for a prisoner identified with large-scale, organized criminal activity.

15764
file



Supreme Court

State of Alaska

941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

BUELL A. NESBETT, CHIEF JUSTICE
JOHN H. DIMOND, ASSOCIATE JUSTICE
JAY A. RABINOWITZ, ASSOCIATE JUSTICE
GEORGE F. BONEY, ASSOCIATE JUSTICE
ROGER G. CONNOR, ASSOCIATE JUSTICE

April 14, 1970

Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V, State Capitol Building
Juneau, Alaska 99801

Subject: House Bill No. 784 - Magistrates' jurisdiction over misdemeanor cases

Dear Mr. Jackson:

Thank you for your letter of April 8.

Mr. Carlson has suggested that the supreme court, in the exercise of its rule-making power, permit appeals from sentences imposed by magistrates which exceed thirty days. I think this might have to be done by legislative act. See AS 22.15.240(b) [SLA 1969 ch. 117].

Sincerely yours,

John H. Dimond
John H. Dimond
Acting Chief Justice

cc: Victor D. Carlson
Public Defender

HB 784

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR

PUBLIC DEFENDER AGENCY

Pouah AE, Juneau, Alaska
99801

April 6, 1970

The Honorable Barry W. Jackson
Chairman
Judiciary Committee
Alaska House of Representatives
Juneau, Alaska 99801

Re: House Bill No. 784 relating
to magistrates' jurisdiction
over misdemeanor cases

Dear Representative Jackson:


Your committee has submitted the subject bill which would remove from the jurisdiction of magistrates the power to be the judge in trials of misdemeanors alleging violations of state law. The bill does not affect the jurisdiction of magistrates to sentence upon a plea of guilty to a misdemeanor in violation of state law or to be the judge in trials of misdemeanors alleging violations of municipal ordinances.

An alternative to the subject bill is suggested, a resolution urging the Supreme Court to permit appeals from sentences imposed by magistrates which exceed 30 days. Presently, Supreme Court Order No. 101, which amended Rule 7, Alaska District Court Criminal Rules, permits appeals from sentences of 180 days or more.

Further, the appropriation of funds to supplement the training of magistrates and other court personnel would help to eliminate mistakes which may now be occurring.

If you have any questions concerning this letter, I shall be happy to answer them.

Very truly yours,


VICTOR D. CARLSON
Public Defender

VDC:rj

April 8, 1970

The Honorable John H. Dimond
Acting Chief Justice
Supreme Court
State of Alaska
Pouch "U", Capitol Building
Juneau, Alaska 99801

Subject: House Bill No. 784 - Magistrates' jurisdiction
over misdemeanor cases

Dear Justice Dimond:

Our committee has reviewed your letter on HB-784 and has decided to place this bill in "Hold" status. I anticipate the committee will take no further action on this bill.

Enclosed is a copy of a letter from the Public Defender suggesting as an alternative that appeals be permitted from sentences imposed by magistrates which exceed 30 days. I feel this suggestion is worthy of consideration. I would request that the court consider this during its current review of the rules.

Very truly yours,

Barry W. Jackson, Chairman
House Judiciary Committee

Enclosure - Copy of letter from Public Defender

BWJ/mm

file



Supreme Court

State of Alaska

POUCH U. CAPITOL BUILDING

JUNEAU, ALASKA

99801

April 3, 1970

BUELL A. NESBETT, CHIEF JUSTICE
JOHN H. DIMOND, ASSOCIATE JUSTICE
JAY A. RABINOWITZ, ASSOCIATE JUSTICE
GEORGE F. BONEY, ASSOCIATE JUSTICE
ROGER G. CONNOR, ASSOCIATE JUSTICE

Honorable Barry W. Jackson
Chairman, House Judiciary Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska 99801

re: House Bill No. 784

Dear Representative Jackson:

You have asked for my comments on House Bill No. 784 which would take away from magistrates jurisdiction over misdemeanor cases, except those involving violations of ordinances of political subdivisions.

There are 54 magistrate locations in Alaska. House Bill No. 605, which would assign magistrates to each city of the fourth class, would increase the number of magistrates by 50 - for a total of 104. There are about 16 district judges. All misdemeanor cases, except those involving violations of ordinances of political subdivisions, would have to be handled by the district judges if House Bill No. 784 becomes law. This would create great delays in disposing of misdemeanor cases in remote areas, and would also result in considerable increased costs in travel.

I do not understand the basic reason for this piece of legislation. A defendant must waive jurisdiction of the district court in order to be tried by the magistrate.

Honorable Barry W. Jackson

April 3, 1970

Page 2

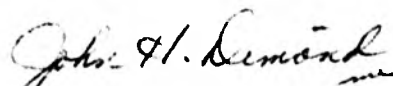
This seems to be ample protection of his rights. If there is concern about protection of the public interest, which might arise by reason of a magistrate being too lenient, then recourse can be had to the presiding judge of the superior court who has the authority to terminate a magistrate's employment and appoint a new one.

I think it is unwise to enact such legislation without a complete and thorough study of the impact it will have on the administration of justice outside the major populated areas of Alaska. Certainly it would result in delays and in increased costs and administrative burdens. Whether this would be justified by the need to limit a magistrate's jurisdiction, I do not know.

You wondered whether some kind of a certification procedure could be set up, whereby the presiding judge of a district court could certify certain misdemeanor cases for trial by the magistrate. I do not know on what basis such decisions would be made, whether based on the kind of case involved or the quality of the magistrate. I am certain, however, that this would result in a considerable increase in administrative work and delays in disposing of cases.

We are trying our best to improve the quality of the magistrate courts. This year marks the second year of a concerted effort by the court system to bring comprehensive training programs to all of the magistrates in Alaska. During the period April 6 to 10, 1970, every magistrate will be in Anchorage for a seminar designed to better equip them to handle matters currently within their jurisdiction. We have noted from last year's seminar, that this type of training has had a good effect, in producing better decisions, procedures and records. We are hopeful and expect that there will be continued improvement.

Sincerely yours,



John H. Dimond
Acting Chief Justice

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

HB-784

February 20, 1970

M E M O R A N D U M

TO: Barry W. Jackson, Chairman
House Judiciary Committee

FROM: Arthur H. Peterson *HP*
Revisor of Statutes

SUBJECT: Qualifications of magistrates

You requested information on this subject. In AS 22.15.160, "Qualifications of district judges and magistrates", subsection (b) provides:

"(b) A magistrate shall be a citizen of the United States and of the state, at least 21 years of age, and a resident of the state for at least six months immediately preceding his appointment. The supreme court may prescribe additional qualifications."

In AS 22.15.170, "Selection of district judges and magistrates", subsection (c) provides:

"(c) The presiding judge of the superior court in each judicial district shall appoint the magistrates for the district court for the judicial district. Each magistrate serves at the pleasure of the presiding judge of the superior court in the judicial district for which appointed."

Rule 36(b), Rules of Administration, provides:

"(b) Magistrates. To be eligible for appointment as a magistrate, a person must meet the qualifications prescribed in AS 22.15.160."

Today I talked with Judge Thomas Stewart, the Presiding Superior Court Judge of the First Judicial District, about the appointment of magistrates. He said that, so far as he knows, the judicial council

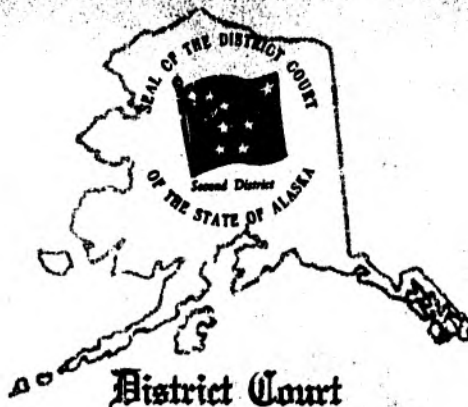
Barry W. Jackson
Chairman

-2-

February 20, 1970

has not recommended and the supreme court has neither proposed nor adopted qualifications for magistrates beyond those specified in the statute. He stated that he follows a very rigid screening process which involves soliciting applications in the community, personally interviewing applicants (for example, before the relatively recent appointment in Yakutat he interviewed at least seven persons in addition to the one finally appointed), and personally going to the community to interview leaders of the community to learn more about the applicants. Factors he considers are age, experience, education, residence in the community, and standing in the community. The judge expressed his willingness to discuss with the committee these procedures and the qualifications of magistrates.

AHP:ic



Magistrates
HB-784

District Court
State of Alaska

FEDERAL BUILDING
BOX 431
NOME, ALASKA 99762

March 17, 1969

Mr. Barry Jackson
Alaska House of Representatives
Juneau, Alaska 99801

Dear Mr. Jackson:

I concur with Judge Mary Alice Miller's letter to you of February 24 regarding the amending of AS 22.15.140. It gives me no inconvenience here as my clerk (only one) is also a magistrate, but I can see it could be quite annoying in a big office.

I also agree with Judge Miller's recommended amendment of AS 22.15.070.

Yours very truly,

Maurice Kelliher
Maurice Kelliher
District Judge

MK: jw

cc: Judge Mary Alice Miller