Part 1—Traffic Regulations

Section 1.0—General Principle. Traffic regulations should encourage safe and expeditious movement of traffic and pedestrians.

Commentary

Traffic laws placing duties on drivers and pedestrians and other regulations, such as those concerning highway design and traffic control engineering, should be coordinated so that unreasonable burdens are not placed on the average motorist or pedestrian. Sound traffic laws and related regulations are a prerequisite to an effective traffic adjudication system.

Section 1.1—Standard for Behavior. Traffic regulations should set reliable standards for driver and pedestrian behavior.

Commentary

Since behavior in traffic is based in part upon reliance on the anticipated actions of others, laws which are not generally known or enforced can create unsafe conditions.

Section 1.2—Uniformity. Traffic regulations should be uniform as well as reasonable.

Commentary

Efforts toward uniformity of traffic regulations within a state and throughout the several states should continue. Studies should encourage uniform adoption of the best traffic regulations. Obsolete, vague and unenforceable regulations should be abolished.

Part 2—Traffic Adjudication

Section 2.0—General Principle. Traffic tribunals should be free from political influences and should be operated without regard to

revenue production requirements. Traffic cases should be decided within a unified court system in the judicial branch of government.

Commentary

The principle of separation of powers should be preserved in the trial of traffic cases. Tribunals should not be subject to control or supervision by an individual or agency responsible for law enforcement, as where a Division of Motor Vehicles has police functions, or is part of the state police.

Traffic tribunals presently within the executive branch should comply with these standards wherever applicable, and their decisions should be appealable directly to a court, rather than to an administrative body.

These standards are not intended to apply to administrative hearings on license suspension or revocation where the facts or law concerning a specific traffic citation are not at issue.

See generally, Standards Relating to Court Organization, ABA Standards of Judicial Administration (1974) regarding unified court structure and judicial selection.

Section 2.1—Record of Proceedings. It is desirable that a verbatim record be maintained of all proceedings.

Commentary

Current technology provides a variety of means of producing a verbatim record; the circumstances of each tribunal and the nature of the charges to be heard should be considered in choosing a method.

Section 2.2—Appeal. An appellate review by a court should be available as a matter of right.

Commentary

The appellate review may be limited to a review of the record. Review on the record saves time for the witnesses and the appellate tribunal, prevents use of the original hearing as a discovery device and allows review of the tribunal's conduct of the original proceedings.

Section 2.3—Judicial Officers. Where judicial officers, other than

judges, hear traffic cases, they should be full-time public employees, appointed in accordance with prescribed regulations.

Commentary

Political and personal patronage in the selection of para-judicial officers to adjudicate traffic offenses should be avoided. Judicial officers should be legally trained and selected in accordance with the qualifications and procedures of Section 1.26, *Standards Relating to Court Organization, supra.* See Sections 1.12 (b) and 1.26 of the *Standards* for the definition and function of judicial officers.

Section 2.4—Code of Conduct. All persons hearing traffic cases should adhere to accepted standards of judicial conduct.

Commentary

The ABA Code of Judicial Conduct sets high standards with respect to the integrity and independence of the judiciary. It can serve as a model.

Section 2.5—Criminal Charges. Any charge for which a jail sentence may be imposed should be heard by a judge within the court system under applicable rules of criminal procedure.

Commentary

Legislative consideration should be given to whether jail sentences for non-hazardous traffic violations should be eliminated. See Part 5-Incarceration for Non-hazardous Offenses.

Section 2.6—Separation of Traffic Cases. Traffic cases should be treated apart from other court business, and traffic sessions or divisions should be established wherever the caseload is sufficient.

Commentary

Separation of traffic cases reduces waiting time, permits use of opening remarks for education about available constitutional safeguards, hearing procedure and traffic safety goals, and facilitates case processing. Periodic, regular assignment to traffic court allows a

judge to develop expertise and a consistent policy of educational penalization.

Section 2.7—Hearing Facilities. The court or hearing room should be dignified, public and well-maintained.

Commentary

Appropriate surroundings help build respect for traffic justice. Students, civic groups and other members of the public should be encouraged to attend traffic hearings.

Section 2.8—Procedure. Tribunals trying traffic cases should be governed by published rules, uniform throughout the state, with local deviations allowable only where expressly permitted by the state-wide rules.

Commentary

Procedure should be simple. Uniform rules, such as the *Model Rules Governing Procedure in Traffic Cases* (1957) published by the National Conference of Commissioners on Uniform State Laws, reflect the expertise and experience of many jurisdictions and readily implement desired standards.

It is desirable that the uniform rules be promulgated by the highest judicial authority in the state. Uniform procedure eases the burdens of police officers, lawyers and others required to appear in court throughout a state. They help insure a higher quality of uniform justice.

Part 3—Pleas and Hearings

Section 3.0—General Principle. Everyone charged with violation of a traffic regulation is entitled to a fair and speedy disposition of the charge before an impartial and qualified tribunal.

Commentary

Availability of a trial *de novo* on appeal does not satisfy the constitutional requirement for a "neutral and detached judge in the

first instance." *See, Ward v. Village of Monroeville*, 409 U.S. 57 (1972). The hearing official may not have a personal financial interest in the disposition of cases, such as directly or indirectly from a fee system. There should be no minimum requirements for conviction rates.

The presence of the police officer or other complaining witnesses is necessary for the fair determination of the facts of the charge.

Out-of-state motorists should have the opportunity for fair and expeditious disposition of traffic charges.

See Section 6.5 opposing use of fines and costs to raise revenue.

Section 3.1—Single Appearance. Multiple appearances should be avoided, except where appearance at a separate arraignment is required. A single in-person appearance by a person charged with a traffic offense should resolve most ordinary traffic charges. Appearance time and date should be scheduled to minimize waiting time for all persons involved.

Commentary

Conviction of a traffic infraction or offense can have serious financial consequences, apart from those imposed by the tribunal; therefore, defendants should not be discouraged from presenting their cases by unnecessary demands on their time.

Tools for efficient scheduling of traffic cases include scheduling them apart from other business (See Section 2.6) and scheduling an officer's traffic appearances. Properly scheduled traffic adjudication, such as use of the officer's day in court system and pleas by mail in cases not requiring mandatory court appearances, conserves police time. Adequate facilities, manpower and resources are necessary for efficient case processing and maintenance of respect for traffic laws.

Section 3.2—Advice of Rights. A defendant should be fully apprised of his constitutional rights and should be fully advised of the consequences of a plea of guilty, no contest, or bail forfeiture and the maximum penalities provided by law, prior to acceptance of his plea or forfeiture, whether accepted in person or by mail.

Commentary

The vast majority of traffic cases are terminated by pleas of guilty, or an equivalent. A defendant, whether or not he appears in court, should be advised of his rights and the consequences of his plea, including sanctions imposed for repeated offenses (*i.e.*, point system; habitual offender acts) by some other means, so that an intelligent and knowing plea can be made, but "guilty with explanation" pleas should be discouraged. Careful explanation of the consequences of bail forfeiture or failure to appear is required because of local variations. Defendants' rights should not be abridged in the name of efficiency or expediency.

Section 3.3—Mandatory Court Appearance. Motorists charged with hazardous or repeated traffic violations should be required to appear in court to answer the charge in person. Hazardous violations should at least include: a violation that contributes to a serious collision; is punishable as a felony; involves operation of a motor vehicle while under the influence of alcohol or another drug; reckless driving; leaving the scene of a collision; or, driving while the driver's license is suspended or revoked, together with such other offenses as may be added locally.

Commentary

Judges should meet periodically with representatives of the state licensing authority and traffic safety officials, to consider which additional specific offenses should, at that time and location, be treated as hazardous.

Section 3.4—Non-Mandatory Appearances. Motorists may be allowed to admit to a violation as charged and pay fines by mail, as prescribed in a schedule promulgated by the tribunal for non-mandatory court appearance cases.

Commentary

A motorist may, after full advice of his rights and the effect of his plea (See Section 3.2), be allowed to mail a fine in lieu of personal payment at a traffic violations bureau. Where mail or bureau payment is allowed, procedures must be adopted to assure court appearance of

persons charged with hazardous or repeated violations, and to remove properly terminated cases from the court s and witnesses' calendars.

Compare, Standards Relating to Pleas of Guilty, ABA Standards for Criminal Justice (1968).

Section 3.5—Individual Attention. When hearings are held, each traffic c. se should receive individual attention from the tribunal.

Commentary

In addition to opening remarks (See Commentary to Section 2.6), efforts must be made in each case to insure that the person charged understands the proceedings, the finding and the reason for any penalty imposed. Individual attention will help to educate the person charged to observe traffic laws and may identify drivers with visual or other disabilities.

Section 3.6—Juvenile Cases. Cases involving juveniles charged with moving violations should receive special treatment to insure that the juvenile realizes the importance of safe driving habits.

Commentary

The presence in court of a parent or guardian is desirable. A mandatory appearance policy should be established for juveniles charged with moving violations. Traffic school is recommended as a sentencing alternative in juvenile cases. See Section 4.1.

Section 3.7—Prosecution. It is improper for a police officer witness, a judge or a hearing officer to act as prosecutor. It is advisable that a prosecuting attorney be present at all stages of the proceedings.

Commentary

Prosecutors accelerate adjudication, maintain impartiality, and relieve the hearing official of the burden of buffering hostilities among defendants and witnesses.

Section 3.8—Defense Counsel. A person charged with a traffic offense should be advised of his constitutional right to counsel at all stages of the proceeding.

Commentary

See Section 3.2. Where there is a likelihood that, following conviction, an indigent person may be deprived of his liberty or property, defense counsel should be appointed. *See, Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Part 4—Corrective Sanctions

Section 4.0—General Principle. Sanctions for traffic law violations should be based upon an informed judgment as to the penalty most likely to help the individual violator be a safer driver.

Commentary

Sanctions for traffic offenses should be designed to achieve safer driving. See Section 6.5.

Section 4.1—Drivers' Records. The tribunal should have available the accurate and current state-wide driving record of each offender after judgment, but prior to sentence. The record should be consulted when sentence is imposed.

Commentary

Driving records should not be used in determining guilt or innocence of the offense charged. They do form an important basis for effective penalization. The violator should be informed of the approaching imposition of point system license suspension, or even more serious habitual offender status.

Section 4.2—Sentencing Alternatives. Traffic tribunals should employ a variety of sanctions to improve traffic safety. Courts should have the discretionary power to suspend or restrict driving privileges.

Commentary

All tribunals should have access to driver improvement schools which would educate drivers in the fields of traffic laws, drivers'

attitudes, hazards and procedures, and such other programs as may be thought to be effective. Sanctions should be based upon knowledge of the individual's past driving record.

Probation with supervision should be considered as a sentencing alternative. *See generally, Standards Relating to Sentencing Alternatives and Procedures* (1968), and *Standards Relating to Probation* (1970), ABA Standards for Criminal Justice.

Suspension or restriction of driving privileges is a more relevant deterrent than assessment of fines for aggravated violations of traffic laws. Where courts do not have that power, they should recommend suspension or review to the licensing authority in appropriate circumstances.

Tribunals should not embarrass or humiliate the defendant.

Fines levied should reflect the nature and circumstances of the offense, but no person should be incarcerated because of his inability to pay a fine. Each tribunal should establish procedures for handling such cases. *See, Tate v. Short*, 401 U.S. 395 (1971).

Section 4.3—Judicial Discretion. Courts should have discretion in the imposition of sanctions provided by law, including discretionary power to suspend terms of incarceration, license suspension, or revocation of drivers' licenses required by law.

Commentary

A number of states have passed statutes requiring incarceration and/or license suspension upon conviction of major violations, such as drunk driving and unlicensed driving. Such mandatory sentence statutes cause distortion throughout the traffic enforcement system, from arrest to trial. They foster plea-bargaining, which subverts public confidence in the enforcement system and driver records. They cause inequities to drivers charged in similar circumstances, and may subvert rehabilitation efforts. Serious traffic cases should be heard only by fully qualified judges, and the discretion of such judges to alleviate penalties should be no more limited in traffic cases than in other forms of anti-social behavior.

Part 5 — Detention or Incarceration for Non-Hazardous Offenses

Section 5.0—General Principle. Persons accused or convicted of traffic offenses, other than hazardous, should not be detained or placed in jail.

Commentary

Section 3.3 defines hazardous violations. A variety of techniques are being applied in lieu of pre-trial incarceration of persons charged with criminal offenses. *See, Standards Relating to Pre-Trial Release,* ABA Standards for Criminal Justice (1968).

For the prohibition of incarceration for inability to pay a fine, *see Tate v. Short, supra.*

Part 6—Administration

Section 6.0—General Principle. The court, or other tribunal, should maintain strict control over case processing, to insure that all charges are properly classified and terminated.

Commentary

The obligation for sound administration cannot be delegated. The supervising judge or hearing official is responsible for the proper disposition of every citation returnable to his tribunal, and constant vigilance of non-adjudicatory functions should be maintained.

Ticket-fixing should not be tolerated. A ticket "fix" is an obstruction of justice, destructive of the rule of law, public morality and public safety.

Section 6.1—Discretionary Disposition. Once a ticket has been issued, discretionary disposition of traffic charges should be accomplished only in a public hearing by the judge or judicial official.

Commentary

Reduction or dismissal of charges and official cancellation of voided traffic complaints should be by informed ruling of the judge or judicial officer in public session. Fines for violations bureau cases should be set by the supervising court.

Section 6.2—Citations. Tribunals should coordinate with law enforcement agencies to insure that all citation forms issued to police officers have been accounted for, without exception. Citation forms should be uniform for law enforcement officers, tribunals, state registrars and other officers. See Uniform Traffic Ticket and Complaint prepared by the ABA Traffic Court Program.

Commentary

The Uniform Traffic Ticket is designed, in part, to eliminate ticket-fixing, but only if all tickets issued are accounted for by each agency concerned. Careful supervision and auditing, allocation of responsibility and checks on the disposition of cases are necessary.

Section 6.3—Internal Audit. The internal operations of each tribunal should be audited, to insure that funds are properly reconciled, the disposition of every citation is properly recorded, and that all convictions for moving traffic violations are reported to the state traffic records system.

Commentary

With growing use of inter-state driver record compacts, the National Drivers Register, point systems and habitual violator statutes, it is improper that some locations report all convictions while others do not. Such disparity penalizes citizens who support safety conscious tribunals and motor vehicle departments.

Section 6.4—Reports. Each tribunal handling traffic cases should report publicly at least annually, with a full description of its operations, costs, revenues, and programs.

Commentary

Information concerning the cost and effectiveness of the traffic adjudication system should be publicly disseminated.

Section 6.5—Fines and Costs. Fines and costs should not be imposed for revenue production purposes. Tribunals should be financed by appropriations, rather than by anticipated fines or cost revenues.

Commentary

Some jurisdictions have used fines and costs as a means of taxation entirely unrelated to the proper goals of traffic adjudication. The cost of adjudication should be borne by the general public, which benefits from the efficient and safe flow of traffic and the fair and proper administration of justice. *See*, Sections 1.50-1.53, *Standards Relating to Court Organization, supra; see generally, Court Finance and Unitary Budgeting*, ABA Commission on Standards of Judicial Administration (1973).

Relevant Information on Bills

SB 73
HB 119

March 1, 1973

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

Dear Mr. Richmond,

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

Sincerely,

Clem Tillion

CT:sam

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

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

Dear Representative Tillion:

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

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

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

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

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

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

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

We, therefore, suggest the following amendment.

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

Sincerely,

Arthur S. Richmond
Chairman, Alaska State
Interment Association

ASR:la

Testimony of Peter Bridge - March 5, 1973

HB-84

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

just about matches the total budget expenditures by the State.

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

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

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

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

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

A free press is necessary to the successful operation of our democracy. Conversely, its destruction is necessary to elimination of our liberties.

Benjamin Franklin recognized this in the 18th Century, when he observed: "Whoever would [illegible] the liberty of a [illegible] must begin [illegible] the [illegible] of [illegible]."

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

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

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

Thank you for your attention and consideration.

ALLIED DAILY NEWSPAPERS OF Washington

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

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

HB-84

February 12, 1973

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

Dear Lew:

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

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

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

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

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

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

Sincerely,

Paul

Paul R. Conrad
Executive Director

PRC:dw

Enclosure

HOUSE BILL NO. 345

State of Washington
43rd Regular Session

by Representatives Charette, Rabel, Kelley, Gasprd and Wilson

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

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

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

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

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

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

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

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

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

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

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

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

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

WILFRED C. STUMP

W. CLARK STUMP

STUMP & STUMP
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BOX 2693
KETCHIKAN, ALASKA 99901
PHONE 225-4131

February 26, 19[illegible]

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

RE: House Bill No. 84
Reporter Privilege

Dear Lew:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Very truly yours,

STUMP & STUMP

BY: 
W. Clark Stump

WCS:ra

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

Jailed Newsman Defends 'Shield'

By JULI CHASE
Empire Staff Reporter

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

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

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

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

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

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

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

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

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

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

(See Jailed, Page Ten)

Jailed Newsman--

(Continued From Page One)

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

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

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

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

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

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

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

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

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

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

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JEFFRIES, Johnston	Leiker Building, Soldotna
JENSEN, Kenneth D.	425 G Street, Anchorage
JERNBERG, Robert L.	312 Commercial Bldg., Ketchikan
JEWELL, Allen L.	542 Second Avenue, Anchorage
JOHNSON, Bjorn G.	805 West Third Avenue, Anchorage
JOHNSON, J. E.	P. O. Box 664, Ketchikan
JOHNSON, Maurice T.	Box 1511, Fairbanks

JOHNSTON, James L.	825 West Eighth Avenue, Anchorage
JOHNSTONE, Karl S.	845 West Eighth Avenue, Anchorage
JONES, Paul B.	2527 Susitna Drive, Anchorage
JOSEPHSON, Joseph P.	326 H Street, Anchorage
KALAMARIDES, Peter J.	Box 1346, Anchorage
KAY, Wendell P.	Box 1178, Anchorage
KENNELLY, Cornelius R.	Box 232, Nome
KERNS, Richard P.	1026 Fourth Avenue, Anchorage
KOHLS, Shirley F.	319 Seward Street, Juneau
KOVARIK, Joseph Albert	401-12th Avenue, Anchorage
KURTZ, Lloyd S.	825 West Eighth Avenue, Anchorage
LaBATE, Peter	731 I Street, Anchorage
LAZARUS, Denis R.	845 West Fifth Avenue, Anchorage
LEVINSON, Elinor B. (Miss)	1010 Mendenhall Apts., Juneau
LIBBEY, Robert M.	Box 1178, Anchorage
LOWE, Robert C.	807 G Street, Anchorage
LYTLE, Richard F.	805 West Third Avenue, Anchorage
McCARREY, J. L., Jr.	Box 1333, Anchorage
McCASKEY, Kenneth	921 Sixth Avenue, Anchorage
McCUTCHEON, Stanley J.	430 C Street, Anchorage
McGRATH, Allen	330 L Street, Juneau
McLEAN, Joseph A.	230 Seward Street, Anchorage
McNABB, George B., Jr.	344 East 15th, Anchorage
McNEALY, R. J.	~~326 H Street, Anchorage~~ Box 657 Kenai- 99611
McVEIGH, Richard L.	204 Crawford Bldg, Anchorage
MACKAY, Neil S.	Box 886, Anchorage
MADSEN, Roy H.	Room 2, Brechan Bldg., Kodiak
MAFFEI, Albert	Box 674, Anchorage
MAHONEY, Robert J.	Box 376, Douglas
MANDERS, John E.	Box 1460, Anchorage
MARTIN, Verne O.	~~327 East Sixth Avenue, Anchorage~~ 3214 - Madison Wa
MATTHEWS, Warren W., Jr.	825 West Eighth Avenue, Anchorage
MERBS, James C.	1026 Fourth Avenue, Anchorage
MERDES, Edward A.	P. O. Box 810, Fairbanks
MERSON, Alan	Univ. of Denver, 200 W. 14th Ave. Denve
MIDDLETON, R. Collin	825 West Eighth Avenue, Anchorage
MILLER, A. Fred	312 Commercial Building, Ketchikan
MILLER, Eugene V.	912 Barnette, Fairbanks
MILLER, Lester W., Jr.	Box 1178, Anchorage
MILLER, Mary Alice (Mrs.)	604 Barnette, Fairbanks
MONAGLE, M. E.	Box 1211, Juneau
MOORE, Daniel A.	360 K Street, Anchorage
MORAN, William J.	Box 1891, Anchorage
MORSE, Mary	1110 Sixth Avenue, Anchorage
MURPHY, Patrick E.	536 Fourth Avenue, Fairbanks
MULDER, Russell	Box 1035 - Juneau
NESBETT, Raymond A.	825 West Eighth Avenue, Anchorage
NIEWOHNER, Edward R.	Suite C, Nerland Bldg., Fairbanks

NORDALE, James D.	Borough Attorney, Soldotna
NOSEK, Francis J.	1026 Fourth Avenue, Anchorage
NOYES, Sherman A.	401 Chena Drive, Fairbanks
OPLAND, Robert N.	329 F Street, Anchorage
PARRISH, Robert A.	536 Fourth Avenue, Fairbanks
PAUL, Frederick	1310-1411 Fourth Ave. Bldg., Seattle
PAUL, William F.	1521 - 16th Avenue East, Seattle
PEASE, Theodore M.	825 West Eighth Avenue, Anchorage
PHILLIPS, Dallas L.	Box 1230, Fairbanks
PLUMMER, William T. 926 3rd	~~Room 205 Central Bldg.~~, Anchorage
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POWELL, James M.	807 G Street, Anchorage
PREE, David J.	Box 392, Anchorage 801 Christensen Drive
PRICE, Robert E.	Pouch K, State Capitol, Juneau
RADER, John L.	Box 2068, Anchorage
REASOR, Edward J.	525 Third Avenue, Anchorage
REGAN, Dickerson	819 Gold Belt, Juneau
REHBOCK, Ernest Z.	1648 Alder Drive, Anchorage
REITMAN, Stanley H.	708 Fourth Avenue, Anchorage
RENFREW, William W.	Box 2073, Anchorage
RICE, Julian C.	Box 516, Fairbanks
RICHEY, Kaye Boyko + Richey	~~360 K Street, Anchorage~~ 1281 W 4th Suite 28 Pioneer Bldg.
RIPLEY, J. Justin	Box 114, Auke Bay
RIVERS, Ralph J.	308 Fifth Avenue, Fairbanks
ROBISON, Paul F.	921 Sixth Avenue, Anchorage
ROSE, Nissel	Box 4-252, Anchorage
ROSS, Herbert	606 Fourth Avenue, Anchorage
ROWLAND, Mark C.	308 G Street, Anchorage
RUBINSTEIN, Michael	4075 Mary Ann Street, Fairbanks
RUDD, Joseph	Box 1332, Anchorage
RUDDY, William G.	P. O. Box 1211, Juneau
RUSKIN, David B.	Box 2073, Anchorage
SAVAGE, John M.	825 West Eighth Avenue, Anchorage
SCHAIBLE, Mrs. Grace B.	P. O Box 810, Fairbanks
SCHULZ, Thomas E.	319 Seward Street, Juneau
SCHWEPPE, A. J.	657 Colman Building, Seattle
SCZUDLO, Walter	500 Second Avenue Fairbanks
SECRIST, Russell J.	Box 1211, Juneau
SHAW, John D.	Box 826, Palmer
SHAYKIN, Richard H.	P. O. Box 1173, Anchorage
SHORTELL, Joseph H., Jr.	City Hall Annex, Anchorage
SIMPSON, Helen L.	645 G Street, Anchorage
SINGLETON, James K.	411 G Street, Anchorage
SNOW, Vernon	497 Douglas Hiway, Juneau
SOUTER, Milton	360 K Street, Anchorage
STALEY, Howard P.	P. O. Box 810, Fairbanks

STEPOVICH, Michael A.	Box 63, Fairbanks
STERN, John M., Jr.	Box 1672, Anchorage
STEVENS, Theodore F.	Box 2085 Anchorage
STRACHAN, John R.	921 Sixth Avenue, Anchorage
STUMP, Wilfred C.-Stumpt Stump	Box 2693, Ketchikan
SVATY, Ronnie	Box 1195, Juneau
TALBOT, Arthur D.	942 Tenth Avenue, Anchorage
TALLMAN, James K.	926 Third Avenue, Anchorage
TAYLOR, Warren A.	Box 200, Fairbanks
THOMPSON, J. W.	Box 217, Kenai
THORSNESS, David H.	807 G Street, Anchorage
TUCKER, Warren A.	425 G Street, Anchorage
TULIN, Charles E.	529 Third Avenue, Anchorage
TUNLEY, Charles R.	606 Fourth Avenue, Anchorage
VOGT, George F.	P. O. Box 2547, Kodiak 99615
WADE, Hugh G.	Box 271, Anchorage
WALTER, Karl L.	Box 400, Anchorage
WALTERS, Benjamin O.	P. O. Box 1564, Ketchikan
WALTON, Peter B.	415 L Street, Anchorage
WANAMAKER, James N.	360 K Street, Anchorage
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WHITE, Albert	126 West Seventh Street, Juneau
WHITE, Hugh B.	845 West Eighth, Anchorage
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WHITTAKER, Richard L.	107 Stedman Street, Ketchikan
WILES, Eugene F.	360 K Street, Anchorage
WILLIAMS, J. Gerald	220 Central Building, Anchorage
WILSON, Juliana D.	360 K Street, Anchorage
WILSON, T. Stanton	360 K Street, Anchorage
WOHLFORTH, Eric	330 L Street, Anchorage
YANDELL, Robert K.	941 Fourth Avenue, Anchorage
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SCHIEMAN, Maj. Gordon	4306 B, USAF Academy, Colorado
SMITH, Evander C.	683 McAllister Street, San Francisco
STRINGER, Harold E.	American Legion, 1608 K Street N.W. Washington, D. C.
STROUSE, Donald E.	6 Washington Circle, Alexandria, Va.
SOLL, Herbert D.	c/o American Embassy, Rio de Janerio G.B., Brasil
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TUCKER, Edward W.	825 West Eighth Avenue, Anchorage
TYNER, Dorothy	Box 1080, Anchorage
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WALSH, Daniel R.	612 Terrace Street, Carson City, Nev.
WEBB, Lloyd J.	Box 321, Twin Falls, Idaho
WELLS, Johathan G.	Wills Lane, Newburyport, Mass.
WHARTON, Hugh D. III	Box 761, San Francisco
WITTEMYER, John	P. O. Box 1246, Boulder, Colorado
WYND, Gladys Stabler	No. 11, MacKinnon Apts., Juneau
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JAMES R. HAYNES
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WILLIAM L. HOISINGTON
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W. H. ORRICK, 1910
OF COUNSEL

CABLE "ORRICK"
TELEX 34-0973

February 27, 1973

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

Re: Committee Substitute for House Bill No. 18

Dear Bob:

In response to your letter of February 21:

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

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

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

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

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

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

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

Sincerely yours,

C. Richard Witkin

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

HB 33

PHONE 586 21 4
OR 586 250

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

March 21, 1973

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

RE: Committee Substitute for H B 33

Mr. Chairman, Ladies and Gentlemen of the Committee:

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

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

PHONE SK 2135
OR SK 2511

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

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

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OR 586 2501

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

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

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

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

O

TO PROTECT THE PUBLIC BY LICENSING TRAINED OPTICIANS, WE THE UNDERSIGNED URGE YOU TO PASS "OPTICIANS LICENSING BILL," H.B. 33

Name	Date	Name	Date
Randy L Andrews	28/Feb/73	Randal J Willits	3/6/73
Tommy R. Sailters	3/1/73	Myrtle R Horn	3/5/73
Sholagene B Anderson	3-1-73	[illegible]	3/5/73
Rod Sanborn	March 3rd 1973	[illegible]	3/5/73
[illegible]	3-4-73	Rita J Luster	3/09/73
Corry Brauss	3-3-73	[illegible] R. [illegible]	3/9/73
[illegible]	3-3-73	Norlaine E. Keller	3/9/73
M Williams	3-3-73	James Blackford	3/9/73
Ruth Peterson	3/3/73	[illegible]	3/10/73
E [illegible]	3/3/73	[illegible]	3-10-73
[illegible]	3/3/73	Mrs. Ralph Carr	3-10-73
David W Rogers	3/3/73	[illegible]	3-10-73
Keith W. Wood	3/3/73	Mrs Day	3-11-73
[illegible]	3/3/73	Linda Day	3-11-73
[illegible]	3/5/75	[illegible]	3/10/73
JoAnn [illegible]	3/3/73	Pamela E Lundeen	3-10-73
Donald E Joyner	3/3/73	John Spencer	3-10-73

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

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

Name	Date	Name	Date
Jean M. Zimmerman	2/27/73	Peggy Nowacinski	2/3/73
Walter Fields	2-27-73	Tois M. Schnelli	
Carmel Bingham	2-27-73	Margaret M. Rutherford	
Jonnie Hamilton	2/27/73	Helen C. Mahler	
Paul S. Lein	27 Feb 73	Darlene M. Appel	3/6/73
Mary Ellen Sygelhorst	2/28/73	Mrs. L. N. Anderson	
Mrs. K. E. Mc Cready.		Rachel Strong	
Lillian W. Miller	3/1/73	Betty J. Bell.	
A. W. Vanderwood		Helen L. Cartwright	
Dale Brodel			
Wm L Potts	3-2-73	Dorothy H. Sewell	
Ray Blackburn	3/2/73	Wake L. Sewell	
Ginger VanWagoner		Barry Jackson	
Angel L Watson	3/2/73	DW Hobbs	
Clyde F Wilson	3/2/72	C. Schenck	3-8-73
Betty Spencer	3/2/73	[illegible] Robinson	3-8-73
Alfred C. Neese	3/3/73	Tim Sears	3-8-73
Virginia Grace Burns	3/4/73		

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

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

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

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

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

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

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

DIAL CA 5-3975

HB 33

January 15, 1973

Senator Robert Ziegler
Baranof Hotel
Juneau, Alaska 99801

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

Dear Senator Ziegler:

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

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

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

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

(cont. page 2)

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

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

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

Very truly yours,

Ed L Craig, O.D.

ELC:gs

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

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

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

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

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

Very truly yours,

Alaska Association of Dispensing Opticians

Philip A. Lampert
President

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

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

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

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

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

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

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

b. Who, in interpreting such prescriptions, takes measurements

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

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

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

e. Who verifies the accuracy of ophthalmic lenses; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 08.73

DISPENSING OPTICIANS

Sections

A BILL

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

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

CHAPTER 73 DISPENSING OPTICIANS

Sec. 3 as 08.72.110 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(1) is at least 18 years of age.

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

(3) is of good moral character.

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

(5) has either

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

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

(6) has paid the required examination fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

08.73.100 DISPENSING OPTICIANS APPRENTICE.

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

license as a dispensing optician within that time.

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

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

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

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

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

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

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

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

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

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

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

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

(34) BOARD OF DISPENSING OPTICIANS

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

February 7, 1973

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

My dear Mr. Tillion:

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

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

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

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

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

Continued

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

Very Truly Yours,
Alaskan Opticians, Inc.

John W. Greiff

John W. Greiff
President

Enc: 1

HB 33

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

Telephone 456-4010

January 25, 1973

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

Dear Dr. Beirne;

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

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

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

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

HB 33

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

Telephone 456-4010

went out fifty years ago.

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

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

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

Sincerely,

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

cc: Rep. Hackney

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

February 9, 1973

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

My dear Mrs. Beirne:

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

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

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

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

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

Continued

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

Very truly yours,
Alaskan Opticians, Inc.

John W. Greiff
President

Enc: 1

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

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

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

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

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

Sincerely,

George V. Hall O.D.

George V. Hall O.D.

ml/GLH

HB #33

DR. DENNIS L. ALBERT
OPTOMETRIST

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

re: House bill #33 (Opticians act)

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

Dear Mrs. Beirne,

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

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

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

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

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

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

Sincerely Yours

Dennis L. Albert