961 HJ SB 104 (FILE NO. 2)

AMENDMENT

Offered in the HOUSE By:

TO: HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 104

Page 10, line 26:

Delete "five" and insert "two" in its place.

Page 10, line 28:

Delete "three" and insert "two" in its place.

AMENDMENT #2

Offered in the HOUSE By:

TO: HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 104

Page 2, line 17:

Delete "may in its discretion (1) review" and insert "has jurisdiction to review (1)" in its place.

Page 2, line 21:

Delete the word "review".

M E M O R A N D U M January 23, 1980

TO: House Judiciary Committee
Rep. Charles H. Parr, Chairman
Rep. Nels A. Anderson, Jr., Vice-Chairman
Rep. Ramona L. Barnes
Rep. Fred E. Brown
Rep. Thelma Bucholdt
Rep. Hugh Malone
Rep. Terry Martin
Rep. Patrick M. O'Connell
Rep. Randy Phillips

FROM: Grant Callow, Alaska Court System

SUBJECT: Proposed amendments to the Court of Appeals Bill, HCSSB 104

This memo has been prepared in an effort to assist the House Judiciary Committee in the final drafting of its legislation concerning the creation of an intermediate appellate court. It addresses a number of concerns that have been raised by the Committee, Ms. Berck, and the Supreme Court. Five amendments have been offered for the Committee's consideration that attempt to alleviate these concerns, and are appended.

The following is brief commentary addressing each area of concern:

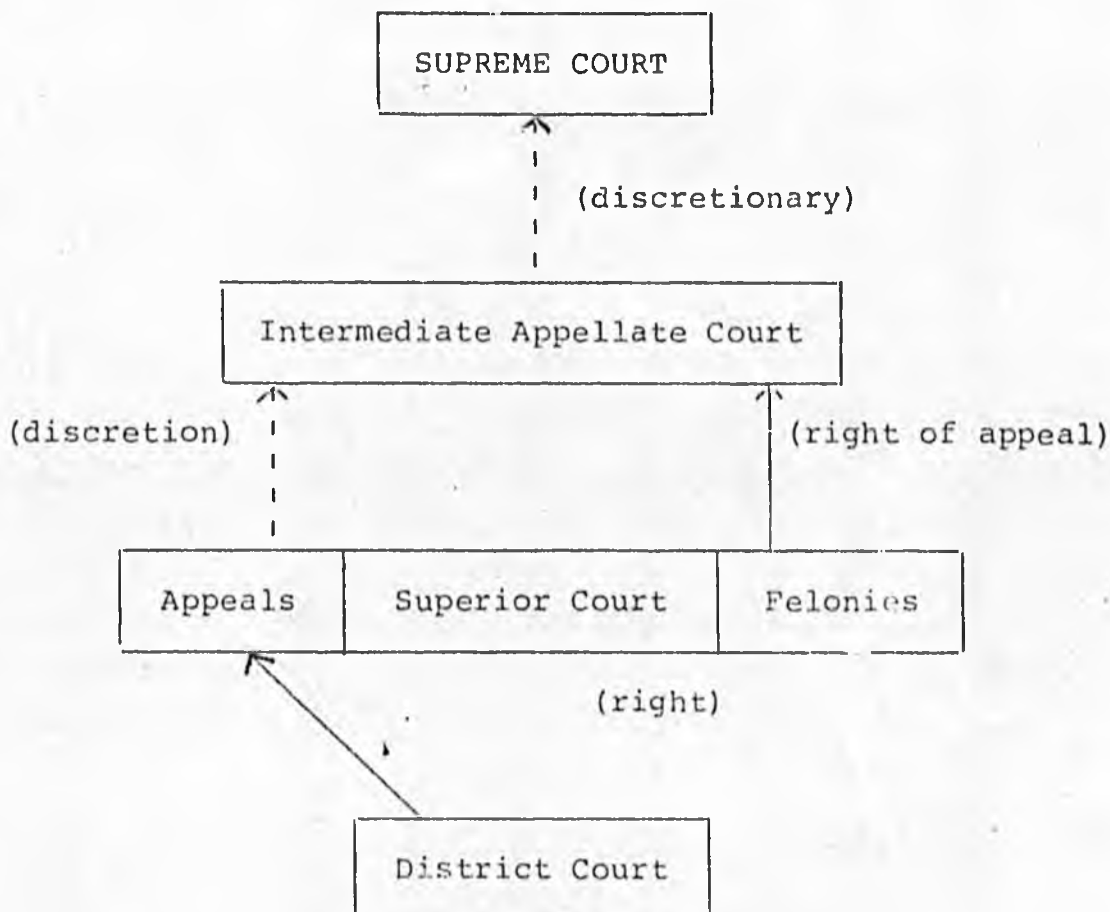
1. Review of District Court Criminal Cases (Amendment No. 1).

The present version of the Court of Appeals bill being considered by the Committee provides that district court criminal cases may be appealed directly to the intermediate appellate court. Serious concern has been expressed over the desirability of providing such direct review, with criticism focusing on the two major following points:

a. Cost. With the intermediate appellate court based in Anchorage, the cost of appealing a district court case is likely to be prohibitive to the average defendant in district court. Although that court may periodically sit in Fairbanks and Juneau, it seems unlikely this could provide district court defendants with the access to review that the superior courts of the state now provide in terms of geographic dispersion. In addition, the superior courts are better able to supervise the district courts on a regional level, thus helping to insure greater consistency in the district court decision-making.

b. Volume and Delay. While the figures for 1979 are not yet complete, the number of district court appeals statewide increased over 150 percent. For reasons indicated above, an increase is likely to continue. The most important criminal appeals, of course, will come from the superior court, and therefore should be the primary focus of the intermediate appellate court work. The increase in district court appeals, therefore, is likely to create an undesirable balance in the intermediate court's caseload. It also appears that the superior courts have been valuable in "weeding out" frivolous appeals. Finally, the number of superior court judges make that court level better able to absorb increased district court appeals especially in high volume areas where cases can be allocated and adjusted to workload.

Given these concerns, it seems desirable to continue to channel district court criminal appeals through the superior court. This can be accomplished while at the same time insuring that important cases will still have access to further appeal by providing that cases can be appealed further with certification by the superior or appellate court. This can be diagramed as follows:



CRIMINAL APPEAL DIAGRAM

This version has the advantage of preserving the "one right of appeal" rule for all criminal cases originating in either district or superior court. This would be accomplished by changes offered in Amendment No. 1, attached.

(Amendment No. 1 - Alternate)

If the Committee decides that all criminal cases should be appealable as a matter of right from the superior court (including superior court appeal decisions from district court criminal cases), then the changes offered in Amendment No. 1 - Alternative, attached, would accomplish this objective.

2. Compensation of Court of Appeals Judges (Amendment No. 2).

The present version of HCSSB 104 places a restriction on any judge of the court of appeals receiving his salary warrant if the court has any opinions or decisions pending more than six months. However, the statutes relating to the supreme court, superior court, district court and magistrates place an individual responsibility on each judge or justice. This is the recommended provision in Amendment No. 2.

In the court of appeals, each case will be assigned to an individual judge for preparation of the opinion, as is the present practice in the supreme court. It is the judge's responsibility to assume that in each case assigned to him, a draft opinion is circulated to the other members of the bench for comment, and a final opinion is issued. He has no control over the cases assigned to other judges, and should therefore not be personally penalized for delay created by other members of the court of appeals.

3. Judges Serving as Delegates to Constitutional Convention (Amendment No. 3).

The present version of the Committee's draft provides that a judge of the court of appeals may seek election as a delegate to a constitutional convention of the state or the United States. (Page 4, lines 17-20 of Committee Draft). This is consistent with sound public policy, allowing all branches of government to be represented at such proceedings. To clarify this, similar statutes relating to supreme court justices and superior and district court judges should be amended to be consistent with the language in the Committee's version of the court of appeals bill.

Suggested amendments have been offered as Proposed Amendment No. 3, attached.

4. Qualifications for District Court Judge (Amendment No. 4).

The present version of HCSSB 104 amends the qualifications for applicants to the district court, by placing a residency requirement of five years instead of the present one year. This would have the effect of reducing the number of qualified applicants for each judicial vacancy. Since Alaska has no law school, a five-year residency requirement would generally result in applicants with five years of legal experience. In a sample of 11 district court positions, the Judicial Council verified that five of the judges who were appointed would not have been eligible to apply with a five-year residency requirement in effect. Assuming that the Judicial Council nominates and the Governor selects only the most qualified applicants, in 5 of these 11 positions a less qualified applicant would have been appointed.

Rather than impose a greater residency requirement, Proposed Amendment No. 4 would establish a two-year practice of law requirement, in place of the no experience requirement in the present law. This would assure that an applicant had some experience, as well as a year's residency in Alaska, before he could apply for a judgeship.

5. Effective Date of Court of Appeals Bill (Amendment No. 5).

Amendment No. 5 establishes an immediate effective date, to permit the Judicial Council to begin advertising as soon as possible for the new judgeships. It requires several months to advertise for, screen, and appoint a new judge and for the new judge to close down his previous practice and begin active duty. The actual effective start-up date for the court of appeals is projected to be July 1, 1980, and the fiscal note requests funding effective that date. However, if recruitment is not commenced prior to that date, it could be October or later before the court is in operation.

TABLE I

ALASKA SUPREME COURT CASE FILINGS 1970-1977

	1970	1971	1972	1973	1974	1975	1976	1977
Regular Appeals and Sentence Appeals Filed	172	197	188	195	208	249	364	470
Petitions for Review Filed	33	12	45	49	60	81	86	126
Original Applications Filed	12	6	16	11	22	7	16	17
Total Filings	217	215	249	255	290	337	466	613

INCREASES

		NUMERICAL	PERCENTAGE
Increase all Categories	1970-71	-2	--
	1971-72	+34	16%
	1972-73	+6	2%
	1973-74	+35	14%
	1974-75	+47	16%
	1975-76	+129	38%
	1976-77	+147	32%
Increase Appeals and Sentence Appeals	1973-74	+13	7%
	1974-75	+41	20%
	1975-76	+115	46%
	1976-77	+106	29%

TABLE II

ALASKA SUPREME COURT CASE FILINGS 1975-1977

	1975	1976	1977	% Increase 1975-1977	% Increase 1976-1977
Appeals					
Civil	151	214	251		
Criminal & Juvenile	76	119	156		
Sentence	22	31	63		
Total Appeals	249	364	470	90%	29%
Petitions for Review	81	86	126		
Original Applications	7	16	17		
Total Filings	337	466	613*	73%	32%

*Case filings for 1977 include 22 reinstated cases.

TABLE III

ALASKA SUPREME COURT DISPOSITION OF CASES 1977

	Opinion and Mandate	Summary Disposition by Order	Dismissed by Court or Parties	Review Denied	Total
Appeals					
Civil	120	5	76		201
Criminal & Juvenile	54	1	33		88
Sentence	21		19		40
Total Appeals	195	6	128		329
Petitions for Review	16	7	13	67	103
Original Applications	3	4	11		18
Total	214	17	152	67	450

TABLE IV

ALASKA SUPREME COURT
FILINGS, DISPOSITIONS AND PENDING CASELOAD 1977

Civil Appeals and Cross Appeals	
Pending 12/31/76	218
Filed or Reinstated 1977	251
Total	469
Disposition	
By Opinion and Mandate	120
By Summary Order	5
Dismissed	76
Total	201
Pending 12/31/77	268

Criminal and Juvenile Appeals	
Pending 12/31/76	132
Filed or Reinstated 1977	156
Total	288
Disposition	
By Opinion and Mandate	54
By Summary Order	1
Dismissed	33
Total	88
Pending 12/31/77	200

Sentence Appeals	
Pending 12/31/76	16
Filed or Reinstated 1977	63
Total	79
Disposition	
By Opinion and Mandate	21
Dismissed	19
Total	40
Pending 12/31/77	39

Petitions for Review	
Pending 12/31/76	20
Filed 1977	126
Total	146
Disposition	
Opinion and Mandate	16
By Summary Order	7
Dismissed or Withdrawn	13
Review Denied	67
Total	103
Pending 12/31/77	43

TABLE IV (Continued)

Original Applications		
Pending 12/31/76	5	
Filed or Reinstated 1977	17	
Total	22	
Disposition		
Opinion and Mandate	3	
By Summary Order	4	
Dismissed	11	
Total	18	
Pending 12/31/77	4	
Total Pending Cases December 31, 1976		391
Total Filings and Reinstatements 1977		613
Total		1004
Total Dispositions 1977		450
Total Pending December 31, 1977		554

TABLE V

ALASKA SUPREME COURT
REASON FOR CASES PENDING DECEMBER 31, 1977

	CASES AWAITING					STAYED	TOTAL
	RECORDS	BRIEFS	HEARING	DECISION	MANDATE		
Appeals							
Civil Appeals	84	54	22	94	4	10	268
Criminal and Juvenile Appeals	47	62	14	70	1	6	200
Sentence Appeals	6	9		19	1	4	39
Total Appeals	137	125	36	183	6	20	507
Petitions for Review		12	1	26	2	2	43
Original Applications			1	3			4
TOTAL	137	137	38	212	8	22	554
% of Total	24.6	24.6	6.9	38.3	1.6	4.0	100%

ALASKA SUPREME COURT PENDING CASELOAD 1961-1977

	Total Cases Pending at Year End	Regular and Sentence Appeals	Petitions for Review	Other	Increase or Decrease
1961	78	76	1	1	
1962	75	73	1	1	-3
1963	99	96	2	1	+24
1964	66	57	2	7	-33
1965	85	78	5	2	+19
1966	93	85	2	6	+8
1967	100	91	5	4	+7
1968	122	107	3	12	+22
1969	114	100	11	3	-8
1970	165	145	15	5	+51
1971	182	175	3	4	+17
1972	211	188	18	5	+29
1973	188	172	14	2	-23
1974	216	193	20	3	+28
1975	258	241	16	1	+42
1976	391	366	20	5	+133
1977	554	507	43	4	+163

Percent of Increase 1961-1977 600%
Percent of Increase 1968-1977 354%
Percent of Increase 1976-1977 41%

TABLE VII

ALASKA SUPREME COURT
MOTION PRACTICE 1977

	TOTAL 1977
Stay Applications Determined by Single Justices	65
Routine Motions Determined by Single Justices	192
Routine Unopposed Motions Determined by Clerk (estimated)*	800
Substantive Motions Determined by Full Court	182
Petitions for Rehearing [Full Court]	35
TOTAL MOTIONS	1274

*Almost all were unopposed motions to extend time to file briefs and other papers.

member files SB 104 am

KENAI PENINSULA BAR ASSOCIATION
P. O. BOX 4210
KENAI, ALASKA 99611
TELEPHONE 283-7167

April 17, 1979

Representative Terry Gardner
Speaker of the House of Representatives

Representative Charles Parr
Chairman - House Judiciary Committee

Representative Hugh Malone

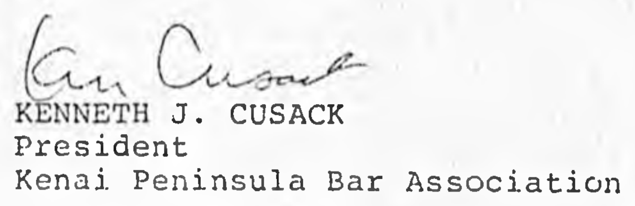
Representative Patrick McConnell

Senator Clem Tillion
President - State Senate
Pouch B
Juneau, Alaska

Dear Mr. Parr:

Enclosed please find a copy of a resolution which was passed by the Kenai Peninsula Bar Association at its April 13, 1979 meeting, supporting the creation of an intermediate criminal appellate court. We felt that it was important for the legislature to be aware that this bar association is very much in favor of the creation of an intermediate court of criminal appeals, in light of the strong opposition to such a court voiced by the Tanana Bar Association.

Very truly yours,



KENNETH J. CUSACK
President
Kenai Peninsula Bar Association

KJC/aj

Encl.

STATE
of ALASKA

MEMORANDUM

members file
SB 104

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee

DATE: April 20, 1979

FILE NO:

TELEPHONE NO:

FROM: Stuart C. Hall, Commissioner
Alaska Public Utilities Commission

Cheri C. Jacobus, Chairman
Alaska Pipeline Commission

SUBJECT: Senate Bill 104 am (Establishing Court of Appeals)

Pursuant to your conversation with Commissioner Hall on Friday, April 6, in Juneau, we submit our comments on SB 104. This is not a position paper of the Department of Commerce and Economic Development nor of the agencies on which we serve; it represents the individual and collective concerns of the writers.

SB 104, establishing an intermediate appellate court, represents one of the options that the Judicial Council has had under consideration for some time to alleviate the workload of the Supreme Court, particularly in the area of the criminal appeals. The other options were: expansion of the membership of the Supreme Court to seven justices and creation of an appellate division of the Superior Court (as in New York State). Instead, the Judicial Council and the state court system opted for the intermediate appellate court. A significant number of other states provide for such a court. We have no position as to whether such a new court is wise or unwise.

Proponents of the legislation refer to this proposed new court as a "Court of Criminal Appeals" and indicate that this court was intended to provide appellate relief in the criminal law area only. The drafters of the legislation, however, have included in the new court's jurisdiction "appeals to the superior court from a decision of an administrative agency".

This concerns us because it creates a third level of appellate review of decisions of the regulatory commissions. We believe this is entirely unnecessary. If a third level of appellate review is added, we believe the APUC will require a third staff attorney to juggle the various cases under review, and this will contribute to "regulatory lag". The new court's jurisdiction will similarly impact the ATC, APC and ACFEC. The Supreme Court is not presently burdened by appeals from the APUC's decisions or those of any of the other principal regulatory agencies (ATC, APC, etc.). We believe only two levels of appellate review are required to ensure compliance with applicable statutes, constitutionally prescribed due process, etc. At the federal level, appeals from the decisions of the FCC, FTC, ICC, FERC and like agencies are taken directly to the Circuit Courts of Appeal. They do not start in the trial court of general jurisdiction, the federal district court. As the Jager case makes clear, to this point in time in Alaska, the Superior Court has acted as the intermediate appellate court. Jager v. State, 537 P.2d 1100, 1106 (Alaska, 1975). If an intermediate court of appeal is created, there is no need for the superior court to perform that function. Consequently, we believe the Superior Court should be bypassed in favor of review by the new Court of Appeals. Ideally, SB 104 am should be further amended to so provide, as should the Administrative Procedure Act (APA). We attach proposed amendments to SB 104 am accomplishing that purpose.

The Judiciary Committee should consider that different types of administrative appeals are heard by the courts under the APA, such as:

(1) appeals from the regulatory commissions;
(2) appeals from denials of various benefits, e.g., unemployment insurance, workmen's compensation, or those administered by the Department of Health & Social Services;
(3) appeals from adoption of regulations, or declaratory judgments concerning the regulations of the various administrative bodies, including the APUC, Department of Fish & Game, Environmental Conservation, etc.

Further SB 104 does not define "administrative agency".

We are advised that the drafters of this legislation did not intend that appeals from our decisions would have three appellate reviews. The effect of this bill, however, would be three appellate reviews. Another provision in the bill does allow the Supreme Court, by rule, to bypass the Court of Appeals for appeals from administrative agencies' decisions and further provides that those decisions would be heard by the Supreme Court after a Superior Court review. We do not regard this as the "clean" approach. We believe SB 104 should be amended to provide for direct appeals from the regulatory commissions' decisions to the Court of Appeals. The drafters concede that the approach in the bill as drafted is not a good one.

cc: Charles Webber, Commissioner
Dept. of Commerce & Economic Development

Keith Specking
Legislative Assistant to the Governor

Proposed amendments to SB 104am (Per Cheri C. Jacobus and Stuart C. Hall)

On page 1, line 25, after "agency", insert:

", other than those agencies set out in (e) of this subsection"

On page 2, between lines 7 and 8, insert:

(e) The court of appeals has appellate jurisdiction in all actions and proceedings commenced before, and all final administrative orders or decisions of, the Alaska Public Utilities Commission, the Alaska Transportation Commission, the Alaska Pipeline Commission and the Alaska Commercial Fisheries Entry Commission. However, the court may, in its discretion, remand a commission matter to the superior court for a trial de noto in whole or in part.

On page 2, line 8, delete "(e)" and insert "(f)"

On page 13, between lines 23 and 24, insert:

* Sec. 26. AS 44.62.560 is amended to read:

Sec. 44.62.560. Judicial review. (a) Judicial review by the superior court, or by the court of appeals, of a final administrative order may be had by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. Except as otherwise provided in this section, the notice of appeal shall be filed within 30 days after the last day on which reconsideration can be ordered, and served on each party to the proceeding. The right to appeal is not affected by the failure to seek reconsideration before the agency.

ALASKA PUBLIC UTILITIES COMMISSION
1100 MACKAY BUILDING
338 DENALI STREET
ANCHORAGE, ALASKA 99501
PHONE 276-6222

(b) The complete record of the proceedings, or parts of it which the appellant designates, shall be prepared by the agency. A copy shall be delivered to all parties participating in the appeal. The original shall be filed in superior court, or the court of appeals, within 30 days after the appellant pays the estimated cost of preparing the complete or designted record or files a corporate bond equal to the estimated cost.

(c) The complete record includes (1) the pleadings, (2) all notices and orders issued by the agency, (3) the proposed decision by a hearing officer, (4) the final decision, (5) a transcript of all testimony and proceedings, (6) the exhibits admitted or rejected, (7) the written evidence, and (8) all other documents in the case.

(d) Upon order of the superior court, or the court of appeals, appeals may be taken on the original record or parts of it. The record may be typewritten or duplicated by any standard process. Analogous rules of court governing appeals in civil matters shall be followed where this chapter is silent, and when not in conflict with this chapter.

(e) The superior court, or the court of appeals, may enjoin agency action in excess of constitutional or statutory authority at any stage of an agency proceeding. If agency action is unlawfully withheld or unreasonably withheld, the superior court, or the court of appeals, may compel the agency to initiate action.

*Sec. 27. AS 44.62.570(a) is amended to read:

(a) An appeal shall be heard by the superior court, or the court of appeals, sitting without a jury.

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*Sec. 28. AS 44.62.570(h) is amended to read:

(h) If further appeal is taken, the supreme court may, in its discretion, stay the superior court or court of appeals judgment or agency order.

Renumber remaining bill sections accordingly

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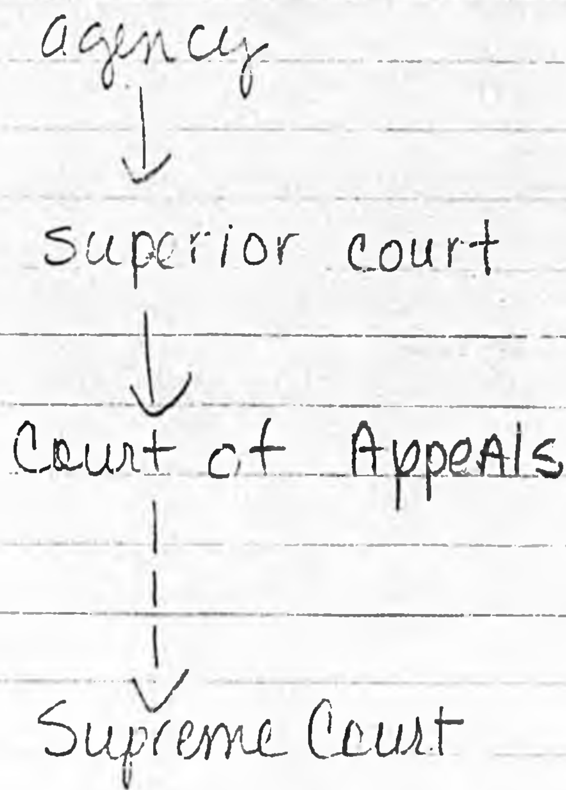
PHONE 276-6222

Original Bill



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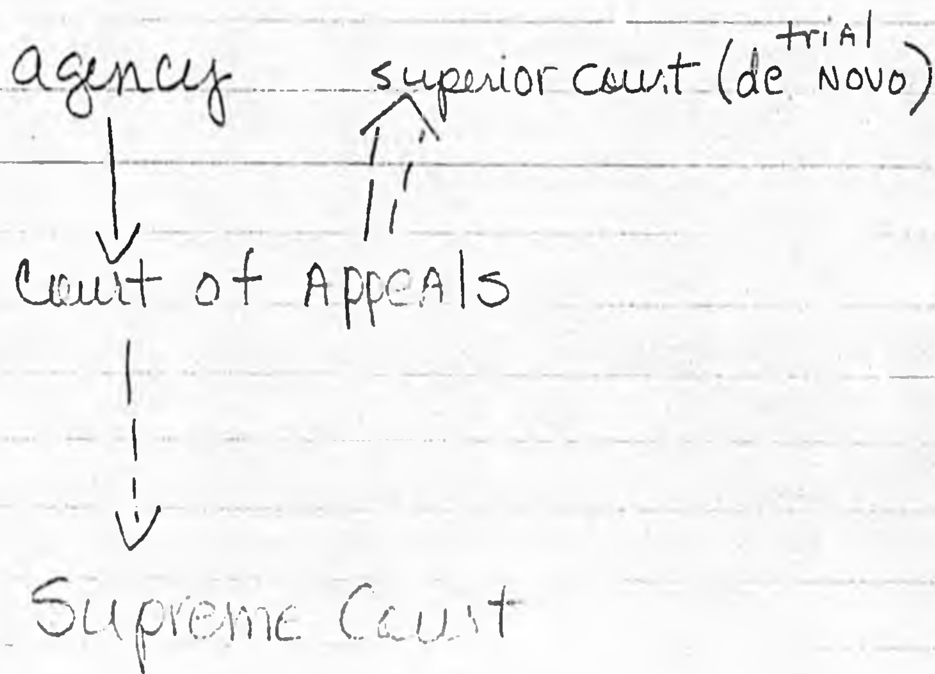
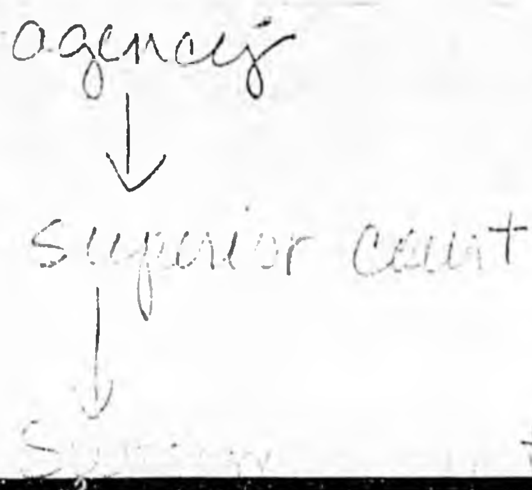


other Alternative - Existing Law



April 24, 1968

Memorandum to: Members of the Court

From: Holman, J.

Subject: Intermediate Court of Appeals

The following is a response to a request by the Judicial Administration Committee of the Oregon State Bar that the Supreme Court state its views on the manner in which the Court believes its burden of work should be relieved.

The Court has concluded that the caseload requires an increase in the manpower which is devoted to the hearing of appeals. There are two ways of acquiring additional manpower: one is to add judges to the Supreme Court and the other is to establish an intermediate court of appeals.

The Supreme Court is opposed to any increase in the present membership of the court. A court of more than seven judges is unwieldy. A substantial part of every judge's work is consideration of the opinions of the other judges. This, of course, increases as the number of judges increases. Nine judges (seven regular justices and two pro tems) presently are unable to keep the current backlog from growing.

If all cases were heard in departments of three members in an effort to keep current, a Supreme Court of nine persons would be three supreme courts and its judgments might be inconsistent as well as inadequate. Even then the manpower would be insufficient. There is a limit to how many opinions a judge can write regardless of the size of the department in which he sits.

A full-scale court of appeals will eventually be

a necessity. When the court of appeals is fully established there will be no need for nine judges on the Supreme Court. If the Supreme Court were now to be increased to nine members it would be extremely difficult in the future to reduce the membership of the court to seven. For the foregoing reasons the Court advocates the establishment of an intermediate court of appeals.

Two interrelated policy questions must be decided before establishing any intermediate court of appeals; the first is the size of such a court and the second is its jurisdiction.

The present members of the Supreme Court believe that not less than twelve judges are needed to handle all of the appellate business of the state. On the basis of an average of the 1966 and 1967 dockets, if all 12 were on the Supreme Court each would be required to write 30 majority opinions in order to keep the current docket from falling behind. We believe this necessary judicial manpower would best be employed in a Supreme Court of seven regular judges and an intermediate court of five regular judges. The regular use of pro tem judges on the Supreme Court could then be discontinued. We believe the five judges of the intermediate court should sit in two departments of three each, with the Chief Judge sitting in both departments.

With reference to jurisdiction, definite rules must be made either by the legislature or by the Supreme Court. The members of the Supreme Court believe that jurisdiction should be based upon specific classes of cases. The classifications used must be clear and distinct to avoid jurisdictional disputes. The Supreme Court should have authority

to determine all jurisdictional disputes in a summary manner without formal briefs, oral argument or written opinions.

The Court suggests that exclusive appellate jurisdiction (subject to discretionary appeal to the Supreme Court) be vested in the intermediate court in the following classes of cases:

1. Criminal, post-conviction, and habeas corpus.
2. Probate, including guardianships.
3. Domestic relations, adoptions, and juvenile matters.
4. Appeals from the decisions of state agencies. (With reference to tax appeals, an exception might be reasonable and desirable, as there will be in most cases a written opinion in the Tax Court from which a direct appeal to the Supreme Court would be practical and economical to taxpayers.)

A statistical study shows that for the last seven years the classes of cases listed above (including tax cases) composed 45.7 per cent of the Supreme Court's business. When it is considered that the seven members of the Supreme Court will have to devote part of their time to considering applications for the right to appeal and appeals from the intermediate court, it is believed that a proper distribution of the appellate caseload between the two courts would be in the range of 45 per cent to the intermediate court, and 55 per cent to the Supreme Court. These figures could be kept under review and adjusted by the Court or by the legislature as the legislature may provide.

There is no object in having an intermediate court

of appeals if litigants have an absolute right of appeal from the intermediate court to the Supreme Court. An absolute right of appeal, as a practical matter, would mean two appeals instead of one. Instead of dispatch such a system would breed delay. American concepts of justice do not require more than one appeal. Therefore, it is essential that an appeal from the intermediate court to the Supreme Court be allowed only at the discretion of the Supreme Court. The procedure for applications for leave to appeal and for appeals when allowed from the intermediate court should be as inexpensive and speedy as will be commensurate with a proper presentation of the problems involved.

Special-interest legislation granting appeals to the Supreme Court as a matter of right should be avoided, as such statutory exceptions tend to proliferate and eventually neutralize the gains anticipated at the beginning of a two-level system.

April 2, 1979

The Honorable Terry Gardiner
Speaker of the House of Representatives
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 104 am

Dear Speaker Gardiner:

This correspondence probably should have stayed in my "out" basket for a few days, but I have decided to send it now because I have some apprehension that the court of appeals bill may pass this session and I wanted to be sure that I got my comments in for whatever they may be worth.

I should say that Senator Ziegler asked for my comments while the bill was still in the Senate. Unfortunately, I did not review the bill as closely as I should have. There are several provisions in that bill that are just plain bad business.

Section 22.07.020 (b) in the bill provides:

> "The court of appeals has appellate jurisdiction in all actions and proceedings commenced in the district court and may, in its discretion, remand a district court matter to the superior court for a trial de novo in whole or in part."

Why in the hell shouldn't the district courts mistakes be remanded to it for correction? The superior court has to correct its own mistakes and I think the district court should too. There are already too damn many cases filed in the superior court that should be filed in district court. There is absolutely no justification for that kind of appellate jurisdiction. Normal accepted practice is for the appellate court to affirm or reverse and remand for whatever relief is necessary, including a new trial. I can conceive of no reason for those cases to be handled by the superior court on remand from the court of appeals.

On another subject, it seems to me that, given the high cost of government, the legislature ought to take a hard look at appellate jurisdiction generally. For instance, Sec. 22.15.240 provides that either party may appeal a judgement of the district court to the court of appeals "where the amount in controversy is not less than $50.00". An appeal as of right certainly need not be available where the sum in controversy is less than $1,000.00.

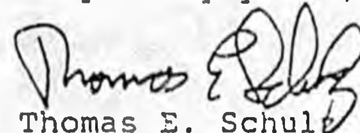
Section 22.05.010 provides that the Supreme Court may review a final decision of the court of appeals "on its own motion or on application of a party under AS 22.07.030." Again, I can see no reason for the Supreme Court to be reviewing cases "on its own motion." If all the parties are satisfied, the court system ought to just "butt-out."

Section 22.05.015(b) provides that the Supreme Court may take jurisdiction of a case pending before the court of appeals if either one of two conditions exist. One of the main justifications for this bill is that the Supreme Court is over-worked. It seems to me that if there is a substantial lack of confidence that the court of appeals can do the job, we ought to look for a new solution. This one, as presently constituted, is just going to add to the merry-go-round. Any appeal from the court of appeals to the Supreme Court ought to be strictly discretionary. Section(c) ought to be eliminated altogether. It is entirely possible for the appellate process to get so screwed up over which court has jurisdiction over which case, that not even the judges will know what is going on.

Section 9(b) provides that a defendant may appeal his sentence in any case where the imprisonment exceeds forty-five days (45) (down from 180). Section 24(a) gives the same right of appeal in cases from superior court (45 days, down from one year). Again, one of the main justifications for this legislature was that the Supreme Court could not keep up with the existing caseload. The answer to that appears to have been to add another level to the court system and increase the workload. With all due respect, Mr. Speaker, that is bullshit.

You will do the public in this State a great service if you can find a committee where this bill can reside comfortably until it dies a natural death or is substantially re-written.

Very truly yours,



Thomas E. Schulz

TES/kod

Alaska Court System

State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

RICHARD P. BARRIER
DEPUTY ADMINISTRATIVE DIRECTOR

303 K STREET
ANCHORAGE, ALASKA 99501
(907) 274-8611

March 23, 1979

Hon. Charles H. Parr
House of Representatives
State of Alaska
Pouch V
Juneau, AK 99811

Dear Representative Parr:

The Legislature currently has before it HCR 2, the bi-annual recommendations of the Salary Commission concerning the compensation of various public officials, including judicial officers. The Commission developed these recommendations after extensive research and analysis over a period of two years. The proposed salaries in HCR 2 are in fact substantially less than the initial recommendations of the Commission, due to the necessity of complying with the President's Wage and Price guidelines.

The last judicial pay raise was implemented on July 1, 1975. If the Legislature does not adopt the Salary Commission recommendations, this will mean that for the five and one-half years from July 1, 1975 through January 1, 1981, the judiciary will have received no salary increase and will in fact find its salaries reduced in purchasing power by as much as 40 percent due to inflation. If the Legislature adopts the Salary Commission recommendations, the judiciary will receive pay raises amounting to less than three percent per year over the five and one-half year period. While this minimal judicial salary increase is less than half that received by other State employees during the comparable period (estimated at 6 to 7% per year), these salary levels are supported by the Court System in light of the restrictions imposed by the President's guidelines.

When the Salary Commission was established in 1976 the following language was enacted by the Legislature: "It is the policy of the Legislature that the Commission determine the salary schedule and retirement benefits for public officers based upon equitable relationships being maintained among State positions." The underlying purpose of establishing a commission was to develop a rational approach to the setting of salaries rather than relying on a strictly political system of salary setting. The recommendations in HCR 2 represent a judicious balance between the various competing factors in salary setting, including equitable relationships among State positions, cost of living, public opinion, comparison to other states, and salaries in the private sector.

In January 1978 this office prepared a judicial compensation position paper to assist the Commission in developing its salary recommendations. A copy of this 1978 paper is attached for your information. In reviewing the paper, the following updated information should be kept in mind:

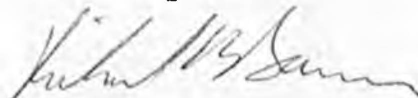
1. An additional 10 percent increase in cost of living in 1978.

2. State employee pay raises ranging from seven to ten percent are under consideration for 1979.

3. Twenty-seven states increased their judicial salaries between July 1, 1977 and July 1, 1978. This dropped the salary ranking of the supreme court on a national scale to 41 out of 50 and the superior court to 35 out of 50 (adjusted on the cost of living determined by the Bureau of Labor Statistics for higher budget for a four-person family).

If you have any questions concerning the attached compensation paper, I would be glad to discuss these with you at your convenience,

Sincerely,



Richard P. Barrier
Deputy Administrative Director

Attachment

TABLE I

1978 RECAPITULATION

	Civil Appeals	Criminal Appeals	Sentence Appeals	Total Appeals	Petitions for Review	Originals	TOTAL
Pending Jan. 1, 1978	268	200	39	507	43	4	554
Filed	253	133	53	439	156	27	622
Reinstated	3	2	3	8	0	0	8
Adjustments[a]	-2	+5	-1	+2	-2	0	0
Closed	225	131	43	399	136	25	560
Pending Dec. 31, 1978	297	209	51	557	61	6	624

a Accounts for cases converted from one category to another during 1978, and for correction of erroneous classifications of certain cases pending January 1, 1978.

TABLE II

1978 DISPOSITIONS

	Civil Appeals	Criminal Appeals	Sentence Appeals	Total Appeals	Petitions for Review	Originals	TOTAL
A. By Opinion & Mandate:							
Affirmed	42	56	23	121	8	2	131
Affirmed in part/reversed or remanded in part	24	7	2	33	1		34
Reversed	2	7		9	2	1	12
Reversed and remanded	26	19	2	47	2		49
Remanded only	11	5	3	19			19
Sentence too lenient			1	1			1
Bar disciplinary action						2	2
Total Dispositions by Opinion & Mandate	105	94	31	230	13	5	248
B. By Memorandum Opinion and Judgment:							
Affirmed	6	5	1	12			12
Reversed	1	1		2			2
C. By Summary Order:							
Affirmed	2	1		3	3		6
Reversed or reversed and remanded	8			8	12		20
Other	1	2		3	6	5	14
TOTAL DISPOSITIONS ON MERITS	123	103	32	258	34	10	302
D. Petitions for Review/ Originals denied					85	14	99
E. Dismissals:							
By Agreement or by appellant	69	18	8	95	4		99
By court	27	9	3	39	12	1	52
On motion	6	1		7	1		8
TOTAL DENIALS & DISMISSALS	102	28	11	141	102	15	258
TOTAL CASE DISPOSITIONS	225	131	43	399	136	25	560

TABLE III - HISTORICAL[a]

		1975	1976	1977	1978
A.	FILINGS[b]				
	Civil Appeals	151	214	251	256
	Criminal Appeals	76	120	156	135
	Sentence Appeals	22	32	63	56
	Total Appeals	249	366	470	447
	Petitions for Review	81	86	126	156
	Originals	7	16	17	27
	TOTAL	337	468	613	630
B.	DISPOSITIONS				
	Civil Appeals		141	201	225
	Criminal Appeals	193	67	88	131
	Sentence Appeals	12	33	40	43
	Total Appeals	203	241	329	399
	Petitions for Review	84	82	103	136
	Originals	10	12	18	25
	TOTAL	299	335	450	560
C.	DISPOSITIONS				
	On Merits	c	148	231	302
	P/R and Orig. Denied	c	52	67	99
	Dismissals	c	135	152	159
	TOTAL	299	335	450	560
D.	OPINIONS PUBLISHED	122	142	189	237
E.	PENDING END OF YEAR				
	Civil Appeals	148	218	268	297
	Criminal Appeals	76	132	200	209
	Sentence Appeals	17	16	39	51
	Total Appeals	241	366	507	557
	Petitions for Review	16	20	43	61
	Originals	1	5	4	6
	TOTAL	258	391	554	624

a The figures for cases pending at the end of 1977 plus 1978 filings minus 1978 dispositions do not equal cases pending at the end of 1978 due to reclassifications and corrections. See footnote a to Table I. The same is true from 1975 to 1976.

b Includes reinstatements.

c Breakdown unavailable.

TABLE IV

CAS[illegible]ENDING: DECEMBER 31, 1978

	Civil Appeals	[illegible]inal Appeals	Sentence Appeals	Total Appeals	Petitions for Review	Originals	TOTAL
Awaiting Record	67	50	8	125			125
Awaiting Briefs	78	70	12	160	14	5	179
With Central Staff	5	3		8			8
Awaiting Hearing/Submission	33	10	1	44	2		46
Awaiting Draft Opinion	54	40	22	116	13		129
Draft Opinion Circulating	38	24	6	68	11		79
Awaiting Decision on Granting Petition for Review or Original					16	1	17
Awaiting Mandate or Decision On Rehearing	11	4	2	17	2		19
Stayed or Remanded	11	8	—	19	3	—	22
TOTAL	297	209	51	557	61	6	624

M E M O R A N D U M   January 3, 1979

TO: Chief Justice Rabinowitz
Justice Connor
Justice Boochever
Justice Burke
Justice Matthews
Justice Dimond
Arthur H. Snowden, II
Susan Burke
Connie Staska
Jim Babb
Merle Martin
Caroline Hudnall

FROM: Robert D. Bacon, Clerk

SUBJECT: December 1978 Statistics

Attached are preliminary statistical tables for the month of December, 1978.

In a few weeks, this office will issue a more detailed annual statistical report containing information for the full year 1978, including average times that various classes of cases are pending, and making comparisons to prior years.

Some preliminary information revealed by this report: during 1978, there were 630 cases filed or reinstated, up from 613 in 1977. However, the number of appeals declined from 470 to 447, the number of petitions and original applications increased from 143 to 183. During 1978, the court disposed of 560 cases, including 302 on the merits. The comparable figures for 1977 are 450 and 231. At the end of 1978 there were 624 cases pending, an all-time high, and a 12.6% increase over the 554 cases pending on the docket one year ago.

During December, only 24 cases were closed, including only 11 on the merits. These are the smallest numbers for any month in more than two years. The 129 cases under submission and awaiting a draft opinion appears to be the largest number ever.

BH for
RDB

ALASKA SUPREME COURT December 31, 1978	Civil Appeals	Criminal Appeals	Sentence Appeals	TOTAL APPEALS	Petitions for Review	Originals	TOTAL ALL CASES
PENDING DECEMBER 31, 1977	265	207	36	508	41	5	554
FILED OR REINSTATED THRU November 30, 1978	230	118	55	403	141	24	568
FILED OR REINSTATED THIS MONTH	26	17	1	44	15	3	62
TOTAL FILED YEAR-TO-DATE	256	135	56	447	156	27	630
Adjustments	+ 1	- 2	+ 2	+ 1		- 1	0
DISPOSITIONS							
A. By Opinion and Mandate/Published							
Affirmed	42	56	23	121	8	2	131
Affirmed in Part/Reversed or Remanded in Part	24	7	2	33	1		34
Reversed	2	7		9	2	1	12
Reversed and Remanded	26	19	2	47	2		49
Remanded Only	11	5	3	19			19
Sentence Too Lenient			1	1			1
Bar Disciplinary Action						2	2
B. By Memorandum Opinion & Judgment							
Affirmed	6	5	1	12			12
Reversed	1	1		2			2
C. By Summary Order							
Affirmed	2	1		3	3		6
Reversed or Reversed & Remanded	8			8	12		20
Other	1	2		3	6	5	14
TOTAL DISPOSITIONS ON MERITS	123	103	32	258	34	10	302
D. Petitions for Review/Originals Denied					85	14	99
E. Dismissals							
By Agreement or by Appellant	69	18	8	95	4		99
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On Motion	6	1		7	1		8
TOTAL DENIALS AND DISMISSALS	102	28	11	141	102	15	258
TOTAL CASE DISPOSITION	225	131	43	399	136	25	560
Reasons for Cases Pending December 31, 1978							
Awaiting Record	67	50	8	125			125
Awaiting Briefs	78	70	12	160	14	5	179
With Central Staff	5	3		8			8
Awaiting Hearing/Submission	33	10	1	44	2		46
Awaiting Draft Opinion	54	40	22	116	13		129
Draft Opinion Circulating	38	24	6	68	11		79
Awaiting Decision on Granting P/R or Orig.					16	1	17
Awaiting Mandate or Decision on Rehearing	11	4	2	17	2		19
Stayed or Remanded	11	8		19	3		22
TOTAL CASES PENDING December 31, 1978	297	209	51	557	61	6	624

TABLE I

ALASKA SUPREME COURT

1978 STATISTICAL SUMMARY

Total Cases Pending: December 31, 1977	554
Cases Filed or Reinstated, 1978	630
Dispositions on Merits to Dec. 31, 1978	
By Opinion and Mandate	248[1]
By Memorandum Opinion & Judgment	14
By Summary Order	40
Total Dispositions on Merits	302
Other Dispositions to Dec. 31, 1978	
Dismissals	159
Petition or Application Denied	99
Total Other Dispositions	258
Cases Pending Dec. 31, 1978	624
Reasons for Cases Pending	
Awaiting Record	125
Awaiting Briefs	179
Awaiting Hearing or Submission	54[2]
Submitted/Awaiting Draft Opinion	129
Submitted/Draft Opinion Circulating	79
Awaiting Decision on Granting Petition for Review	17
Awaiting Mandate or Decision on Rehearing	19
Stayed or Remanded	22
Total Pending Dec. 31, 1978	624

225 total awaiting decision

1 237 opinions have been published to date. The numbers differ because in consolidated cases and cross-appeals, more than one case is often disposed of in a single opinion. Moreover, opinions published late in December of one year do not produce case dispositions until the following year.

2 Of these cases, eight were pending with the Central Staff.

minutes file
5/3, 10:45 am

KENAI PENINSULA BAR ASSOCIATION
P. O. BOX 4210
KENAI, ALASKA 99611
TELEPHONE 283-7167

April 17, 1979

Representative Terry Gardner
Speaker of the House of Representatives

Representative Charles Parr
Chairman - House Judiciary Committee

Representative Hugh Malone

Representative Patrick McConnell

Senator Clem Tillion
President - State Senate
Pouch B
Juneau, Alaska

Dear Mr. Parr:

Enclosed please find a copy of a resolution which was passed by the Kenai Peninsula Bar Association at its April 13, 1979 meeting, supporting the creation of an intermediate criminal appellate court. We felt that it was important for the legislature to be aware that this bar association is very much in favor of the creation of an intermediate court of criminal appeals, in light of the strong opposition to such a court voiced by the Tanana Bar Association.

Very truly yours,

KENNETH J. CUSACK
President
Kenai Peninsula Bar Association

KJC/aj

Encl.

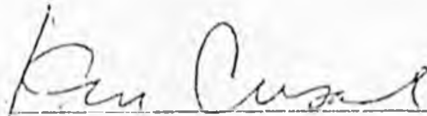
KENAI PENINSULA BAR ASSOCIATION
P. O. BOX 397
KENAI, ALASKA 99611
TELEPHONE 283-7564

RESOLUTION

Upon motion duly made, seconded, and passed by the Kenai Peninsula Bar Association, it was resolved:

The Kenai Peninsula Bar Association supports the establishment of an Alaska Intermediate Court of Appeals for criminal cases, provided that review from said appellate court to the Alaska Supreme Court shall be by writ of certiorari and not by automatic right of appeal.

RESOLVED this 13th day of April, 1979.



KENNETH J. CUSACK, President
Kenai Peninsula Bar Association

STATE
of ALASKA

MEMORANDUM

mandus file
SB 104

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee

DATE: April 20, 1979

FILE NO.

TELEPHONE NO.

FROM: Stuart C. Hall, Commissioner
Alaska Public Utilities Commission

Cheri C. Jacobus, Chairman
Alaska Pipeline Commission

SUBJECT: Senate Bill 104 am (Establishing Court of Appeals)

Pursuant to your conversation with Commissioner Hall on Friday, April 6, in Juneau, we submit our comments on SB 104. This is not a position paper of the Department of Commerce and Economic Development nor of the agencies on which we serve; it represents the individual and collective concerns of the writers.

SB 104, establishing an intermediate appellate court, represents one of the options that the Judicial Council has had under consideration for some time to alleviate the workload of the Supreme Court, particularly in the area of the criminal appeals. The other options were: expansion of the membership of the Supreme Court to seven justices and creation of an appellate division of the Superior Court (as in New York State). Instead, the Judicial Council and the state court system opted for the intermediate appellate court. A significant number of other states provide for such a court. We have no position as to whether such a new court is wise or unwise.

Proponents of the legislation refer to this proposed new court as a "Court of Criminal Appeals" and indicate that this court was intended to provide appellate relief in the criminal law area only. The drafters of the legislation, however, have included in the new court's jurisdiction "appeals to the superior court from a decision of an administrative agency".

This concerns us because it creates a third level of appellate review of decisions of the regulatory commissions. We believe this is entirely unnecessary. If a third level of appellate review is added, we believe the APUC will require a third staff attorney to juggle the various cases under review, and this will contribute to "regulatory lag". The new court's jurisdiction will similarly impact the ATC, APC and ACFEC. The Supreme Court is not presently burdened by appeals from the APUC's decisions or those of any of the other principal regulatory agencies (ATC, APC, etc.). We believe only two levels of appellate review are required to ensure compliance with applicable statutes, constitutionally prescribed due process, etc. At the federal level, appeals from the decisions of the FCC, FTC, ICC, FERC and like agencies are taken directly to the Circuit Courts of Appeal. They do not start in the trial court of general jurisdiction, the federal district court. As the Jager case makes clear, to this point in time in Alaska, the Superior Court has acted as the intermediate appellate court. Jager v. State, 537 P.2d 1100, 1106 (Alaska, 1975). If an intermediate court of appeal is created, there is no need for the superior court to perform that function. Consequently, we believe the Superior Court should be bypassed in favor of review by the new Court of Appeals. Ideally, SB 104 am should be further amended to so provide, as should the Administrative Procedure Act (APA). We attach proposed amendments to SB 104 am accomplishing that purpose.

The Judiciary Committee should consider that different types of administrative appeals are heard by the courts under the APA, such as:

(1) appeals from the regulatory commissions;
(2) appeals from denials of various benefits, e.g., unemployment insurance, workmen's compensation, or those administered by the Department of Health & Social Services;
(3) appeals from adoption of regulations, or declaratory judgments concerning the regulations of the various administrative bodies, including the APUC, Department of Fish & Game, Environmental Conservation, etc.

Further SB 104 does not define "administrative agency".

We are advised that the drafters of this legislation did not intend that appeals from our decisions would have three appellate reviews. The effect of this bill, however, would be three appellate reviews. Another provision in the bill does allow the Supreme Court, by rule, to bypass the Court of Appeals for appeals from administrative agencies' decisions and further provides that those decisions would be heard by the Supreme Court after a Superior Court review. We do not regard this as the "clean" approach. We believe SB 104 should be amended to provide for direct appeals from the regulatory commissions' decisions to the Court of Appeals. The drafters concede that the approach in the bill as drafted is not a good one.

cc: Charles Webber, Commissioner
Dept. of Commerce & Economic Development

Keith Specking
Legislative Assistant to the Governor

1 Proposed amendments to SB 104am (Per Cheri C. Jacobus and Stuart
2 C. Hall)
3
4 On page 1, line 25, after "agency", insert:
5 ", other than those agencies set out in (e) of this
6 subsection"
7 On page 2, between lines 7 and 8, insert:
8 (e) The court of appeals has appellate jurisdiction
9 in all actions and proceedings commenced before, and all final
10 administrative orders or decisions of, the Alaska Public Utilities
11 Commission, the Alaska Transportation Commission, the Alaska
12 Pipeline Commission and the Alaska Commercial Fisheries
13 Entry Commission. However, the court may, in its discretion,
14 remand a commission matter to the superior court for a trial
15 de note in whole or in part.
16 On page 2, line 8, delete "(e)" and insert "(f)"
17 On page 13, between lines 23 and 24, insert:
18 * Sec. 26. AS 44.62.560 is amended to read:
19 Sec. 44.62.560. Judicial review. (a) Judicial
20 review by the superior court<u>, or by the court of appeals,</u>
21 of a final administrative order may be had by filing a notice
22 of appeal in accordance with the applicable rules of court
23 governing appeals in civil matters. Except as otherwise
24 provided in this section, the notice of appeal shall be filed
25 within 30 days after the last day on which reconsideration
26 can be ordered, and served on each party to the proceeding.
27 The right to appeal is not affected by the failure to seek
28 reconsideration before the agency.
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ALASKA PUBLIC UTILITIES COMMISSION
1100 MACKAY BUILDING
338 DENALI STREET
ANCHORAGE, ALASKA 99501
PHONE 276-6222

(b) The complete record of the proceedings, or parts of it which the appellant designates, shall be prepared by the agency. A copy shall be delivered to all parties participating in the appeal. The original shall be filed in superior court, or the court of appeals, within 30 days after the appellant pays the estimated cost of preparing the complete or designted record or files a corporate bond equal to the estimated cost.

(c) The complete record includes (1) the pleadings, (2) all notices and orders issued by the agency, (3) the proposed decision by a hearing officer, (4) the final decision, (5) a transcript of all testimony and proceedings, (6) the exhibits admitted or rejected, (7) the written evidence, and (8) all other documents in the case.

(d) Upon order of the superior court, or the court of appeals, appeals may be taken on the original record or parts of it. The record may be typewritten or duplicated by any standard process. Analogous rules of court governing appeals in civil matters shall be followed where this chapter is silent, and when not in conflict with this chapter.

(e) The superior court, or the court of appeals, may enjoin agency action in excess of constitutional or statutory authority at any stage of an agency proceeding. If agency action is unlawfully withheld or unreasonably withheld, the superior court, or the court of appeals, may compel the agency to initiate action.

*Sec. 27. AS 44.62.570(a) is amended to read:

(a) An appeal shall be heard by the superior court, or the court of appeals, sitting without a jury.

ALASKA PUBLIC UTILITIES COMMISSION
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ANCHORAGE, ALASKA 99501
PHONE 276-6222

1 *Sec. 28. AS 44.62.570(h) is amended to read:

2 (h) If further appeal is taken, the supreme

3 court may, in its discretion, stay the superior court or

4 of appeals judgment or agency order.

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6 Renumber remaining bill sections accordingly

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ALASKA PUBLIC UTILITIES COMMISSION
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PHONE 276-6222

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

February 2, 1979

Honorable Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: The Court of Appeals

Dear Senator Ziegler:

This is in response to your request for background information concerning the proposed intermediate appellate court.

In 1977 the supreme court became increasingly aware that the appellate workload was growing beyond the court's ability to handle it effectively and efficiently. Since 1970, following the increase in the supreme court's membership from three to five justices, the court's case filings have risen from 217 to 630, an increase of 300%. Though there have been slight increases in clerical staff, and two central legal staff assistants added, the supreme court is operating with essentially the same personnel it had in 1972 when the case filings were only 249.

During recent years the court has instituted a number of improvements designed to speed up the appellate process and to allow the court to handle better the increasing caseload.[1] Yet even with these improvements, the backlog of cases awaiting decision by the court continues to rise. In 1977 the chief justice requested the administrative office to explore additional solutions to the workload problems. A copy of the report prepared by this office is enclosed, but the report may be briefly summarized here.

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1. These improvements include delegating routine motions to the Clerk of the Court for decision, establishing a strict policy concerning extensions of time for filing briefs, providing a mechanism for parties to agree to a summary decision of their appeals, establishing a screening function for identifying cases that are amenable to summary decision, improving the case status monitoring capabilities, and increased use of per curiam and memorandum decisions.

Among the possible solutions identified in the report were to (1) increase the membership of the supreme court to seven; (2) limit the right of appeal; (3) have the supreme court hear cases in panels of three, with assistance from superior court judges; (4) increase the law clerk staff; and (5) establish an intermediate court of appeals. After reviewing the report, the supreme court determined that increasing the size of the court would not add significantly to its ability to decide more cases. The increased time required to achieve consensus of among more justices and the time required to review more draft opinions would nearly offset the advantage to be gained by having two more justices writing opinions. Limiting the right of appeal was rejected because it was believed that fairness requires that a party be entitled to one appeal. The court also agreed that the use of panels would not provide a significant workload savings and that such savings as would be achieved would only offer a temporary respite. Additionally, the use of panels, particularly if superior court judges were used on the panels, would unduly dilute the supreme court's law-making function. The court decided that an augmented central legal staff could provide some assistance,[2] but it also recognized that placing too much reliance on legal assistants is not desirable and runs the risk of having appeals decided essentially by law clerks and not by the court.

At the time the supreme court reviewed the report in September of 1977 it agreed that an intermediate appellate court was the one solution that offered the best hope of relieving the court's workload while maintaining the supreme court's essential law making function. The court, however, decided to wait one more year before making a final decision whether to seek the establishment of an intermediate appellate court. In the fall of 1978, it was clear that the workload situation on the court had not altered significantly, even though the appellate filings for 1978 increased only slightly over 1977. The court was deciding more cases than in 1977, writing more opinions, and generally working at a killing pace. Yet the backlog was still rising and at the end of 1978 the court had more cases under advisement and awaiting decision than ever before. The inevitable conclusion to be drawn from this is that even at the current rate of appellate filings, the court cannot keep pace. The backlog of cases awaiting

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[2] The court now has two central staff attorneys working under the direction of the Clerk of the Supreme Court.

decision will continue to rise and the already significant delay in obtaining a decision on appeal will increase even further, even if appellate filings do not increase. Litigants will find themselves waiting not months, but years, for a decision.

A recent study by this office moreover, shows that there will undoubtedly be an increase in appellate filings over the next ten years. This study found an extremely high historical correlation between population growth and increases in appellate filings. Using the most conservative estimates for population growth (i.e., assuming there is no gas pipeline construction, no increase in litigation from the criminal code, etc.), the appellate filings in the supreme court are projected as follows:

	Expected	High
1981	673	844
1982	729	800
1983	784	856
1984	843	915
1985	906	979
1986	969	1043
1987	1013	1106
1988	1098	1174

Clearly the supreme court cannot handle these anticipated future increases.

We have also recently compared the Alaska Supreme Court's current workload with that of several other supreme courts in the nation at the time that those courts sought and obtained legislation in their states to establish intermediate appellate courts. Although such comparisons are less than totally accurate because courts tend not to measure precisely the same things, it does appear that our supreme court is in very close to the same circumstances as these other courts.

For example, Arizona's intermediate appellate court was established in 1965. During 1964, the Arizona Supreme Court had total appellate filings of 672, slightly more than our court's during 1978. However, the Arizona court, with five justices, terminated only 473 cases in 1964, many fewer than the 560 terminated by our court, and wrote only 177 opinions compared to 237 opinions by the Alaska court last year. Similarly, New Mexico's intermediate court was also established in 1965. During 1964 the New Mexico Supreme Court, also with five justices, disposed of 163 cases by written opinion and terminated a total of 435 cases.

Although the supreme court clerk's office is still completing its 1978 statistical report, we have attached some preliminary 1978 figures and should have a more complete report shortly. Also attached are reports showing the court's activity during recent years, and a report showing a breakdown of how the 1978 case filings would have been distributed between the proposed court of appeals and the supreme court, based on the proposed criminal jurisdiction of the court of appeals.

The final point of discussion concerning the creation of the court of appeals is its cost versus its benefit to litigants. The projected startup expense for this court for the six month period of January 1, 1980 to June 30, 1980, is $325,000. The annual operating expense is projected at $555,000.

Other than the judicial positions and immediate supporting staff, no additional positions are needed, as the clerk's office of the court of appeals will be combined with that of the supreme court.

To a large extent the additional expense associated with the court of appeals will be minimized through cost savings in the supreme court and trial courts. For example, the reduction in workload in the supreme court will eliminate the need for the additional legal research personnel requested in the Fiscal Year 1980 budget. By expediting the appeal process, litigants will experience savings in direct expenses as well as benefiting from the prompt final determination of their cases.

We appreciate very much your assistance with the court of appeals bill. If you wish further information, please let us know.

Sincerely,

Arthur H. Snowden, II

AS/pmr

Alaska State Legislature

HOME ADDRESS
P.O. BOX 65
GALENA, ALASKA 99741

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

SENATOR
John C. Sackett
CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
LABOR & MANAGEMENT COMMITTEE

Senate

April 26, 1979

The Hon. Charlie Parr
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: SB 104

Dear Charlie:

This is in response to your letter of April 25 in which you have listed several questions that have arisen concerning Senate Bill 104. Based on the input I have received from a variety of sources, I believe all of the really critical questions have been more than adequately answered. I have reviewed all of your questions carefully, and will provide my comments to each of them.

(1) There seems to be no serious doubt that the Supreme Court is faced with a critically heavy workload that requires immediate legislative response. I am personally convinced that a Court of Appeals is the best solution. This solution is the one not only recommended by the American Bar Association, but is also the one successfully implemented in other states to meet similar workload problems.

(2) I do not believe that Alaska is ready for a Court of Appeals with full appellate jurisdiction. While the appellate caseload is greater than one court can handle, it is not yet large enough to justify two full appellate courts even if the state could afford it. I also believe that the jurisdiction of the Court of Appeals should be limited to criminal cases. Criminal cases, much more than civil cases, are likely to result in a final determination at the Court of Appeals level, thus providing a real workload reduction in the Supreme Court. I am confident that the Court of Appeals will be every bit as fair and just as the Supreme Court in handling these cases.

(3) If the jurisdiction of the Court of Appeals is limited to criminal cases, I think the Supreme Court will exercise review very sparingly. Examples that come to mind are cases where the Court of Appeals may have overlooked or misinterpreted an applicable Supreme Court decision or Legislative enactment. Parties, of course, should be able to apply to the Supreme Court for review of a Court of Appeals decision. The Court of Appeals should also be able to refer a pending case to the Supreme Court if the case involves unsettled major constitutional or legal questions.

(4) I see no problem with having District Court appeals, particularly in criminal cases, go directly to the Court of Appeals. With respect to administrative agency appeals, I am not convinced that the Superior Court should be bypassed. This is a question the legislature probably should address at some point, but I think any changes in the existing structure should be addressed in separate legislation, and for the time being these cases should continue to go first to the Superior Court and then directly to the Supreme Court.

(5) The question of whether the right of appeal should be abolished or expanded in certain cases is not one that should be addressed in this bill. My own view is that I would hate to see the existing rights of Alaska citizens curtailed.

(6) I appreciate that there are concerns about sentence appeals, but again I believe this is a totally separate issue that should be taken up in separate legislation. Even if the number of sentence appeals were substantially reduced, the need for a Court of Appeals would still exist.

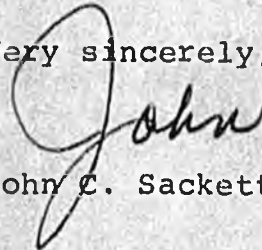
(7) Senate Bill 104 preserves the current law restricting a justice or judge from being appointed to the Supreme or Superior Court if rejected at a retention election, and the bill simply adds the Court of Appeals to the other two courts. I certainly would have no objection, nor do I think the Court System would object, to an amendment adding the District Court.

(8) The question of whether a justice or judge should be allowed to be a delegate to a constitutional convention does not appear to be related in any way to the establishment of the Court of Appeals. This is a separate question and does not require immediate attention.

In summary, I believe that the establishment of the Court of Appeals is an immediate need and the timetables involved require action this session. Though the Court of Appeals will be new for Alaska, the concept is one that has been thoroughly tested elsewhere in the nation and proven to be effective.

In closing, Charlie, I am very aware of the several other priority bills that are still awaiting action in your committee, and in no way do I desire to interfere with the passage of these. But, as Senate Bill 104 has been a priority of mine throughout the session, I ask for your sincere consideration on this legislation so that perhaps it may result in fruition. I thank you for your time and cooperation with my request.

Very sincerely,



John C. Sackett

CHARLIE PARR

ALASKA LEGISLATURE

S. R. Box 50599
Fairbanks, Alaska 99701
456-5029

Pouch V
Juneau, Alaska 99811
465-3797

April 25, 1979

Honorable John C. Sackett, Chair
Finance Committee
Alaska State Senate
State Capitol
Juneau, Alaska 99811

Dear John:

I didn't get your letter about SB 104 (Court of Appeals) until I returned to my office late last night.

This bill has had four hearings, for a total of about six hours. Here are some of the questions which have surfaced:

1. Is this the best solution to the Court's problems?

2. Should the Court of Appeals have civil rather than criminal jurisdiction, or both?

3. Under what circumstances, and using what mechanism, should the Supreme Court review cases which have already been decided by the Court of Appeals?

4. Should appeals from district courts and administrative agencies go directly to the Court of Appeals (or to the Supreme Court or to Superior Court)?

5. Should there be a limitation on cases which can be appealed?

6. Is there a need to restrict sentence appeals, in light of past Supreme Court rulings?

7. Should a judge rejected by the voters be eligible for appointment to a different court?

8. Should a judge be allowed to be a delegate to a constitutional convention?

This is the most significant change to the court system proposed since statehood. The legislature is constitutionally mandated to establish courts and define their jurisdiction, and should take this responsibility seriously. It does not seem to me appropriate that the court system should be pushing us to take hasty action.

I have been looking for a way to set up the Court of Appeals now, without resolving all the major questions first. The idea would be to permit the Judicial Council to solicit applications for judgeships, review and make recommendations to the Governor so that he could appoint, with a delayed date for the court to begin operations. This would also give time for the administrative director of the court system to arrange for space, furniture, personnel, etc. Unfortunately I have not found a satisfactory way to do this.

As you may be aware, there are still several important senate bills to go through Judiciary Committee. It is possible to schedule another hearing on SB 104, but this would interfere with action on those bills.

I would be happy to discuss this with you personally.

Sincerely,

Charles H. Parr
Chair, Judiciary Committee

Alaska State Legislature

HOME ADDRESS
P.O. BOX 65
GALENA, ALASKA 99741

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

Senate

SENATOR
John C. Sackett
CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
LABOR & MANAGEMENT COMMITTEE

April 24, 1979

Honorable Charlie Parr, Chairman
Judiciary Committee
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99811

Dear Charlie,

I would appreciate your consideration in scheduling Senate Bill 104, (Establishing the Court of Appeals), for hearing in your committee within the very near future.

This legislation is of priority interest to me, and your assistance would be most helpful. If you should have question regarding the bill, please contact me. Please notify my office if a hearing can be scheduled within the immediate future. Again, I thank you for your consideration and assistance.

Very sincerely,

John

John C. Sackett

To: Charlie
From: Peggy MWB
Date: April 19, 1979
Re: Small Claims Court Statistics-Request.
Sources for this Memo: Rick Berrier, Court System Liason Person &
Alaska Statutes. Also Susan Burke, Court System.

1. Percent District Court Filings.

Note: District Court - normal civil procedure - jurisdictional amount = $10,000 or less.

Small Claims Court, which is a function of the District Court, has a jurisdictional amount of $2000. This figure was raised from $1000 by the Legislature in 1978. AS 22.15.040.

Small claims matters are heard by magistrates and district court judges.

Jurisdiction of District Court not include actions of an equitable nature. Jurisdiction includes: violations, misdemeanors, writs of habeas corpus.

2. Days between filiing and disposition.

Why does it take 24 more days to dispose a small claims matter in Anchorage than other civil matters:

A. Staff - there are: 8 magistrates in Anchorage*
4 " " Fairbanks
1 magistrate in Juneau
(these figures were provided by Berrier and Susan Burke and were their estimates-need to confirm)

*5 of the magistrates in Anchorage do night court - bail setting, and rotate back into day work on a schedule permitting them to adjust to the difference in work hours.

B. Case load - note the statistics on filings per month: Anchorage has 5 times the case load of either Juneau or Fairbanks.

3. Percent disposition for the Plaintiff.

At this point I can't surmise why these varying results are occurring.
A. Judges could be a factor.
B. Presence of attorney could be a factor.

4. Why do Small Claims take longer to dispose when these claims do not go to trial.

The statistics provided do not indicate that these actions have been joined. For example, if the statistics are based on the filing of a complaint, those cases where the defendant is never served and the case is ultimately dismissed because of that fact, would skew the results possibly accounting for the longer disposition time for those claims not going to trial. Other potential factors:
A. The parties could settle the case, but fail to inform the court.
B. The plaintiff could be dragging his heels, ie, the defendant does not answer the law suit, but the plaintiff takes a great deal of time to obtain his default judgement.
C. Cases which are not pursued by the plaintiff-or moved to be dismissed by the defendant-are ultimately dismissed by the Court. This is done pursuant to Civil Rule 41 (e). There it is required that the Court review its entire docket and dismiss those cases in which nothing has been done for a year. This action by the court is called "the call of the Calendar" and notice is provided to attorneys or parties,pro se. In accordance with the court rule, the court must do this at least semi-annually. If some judges are doing this more frequently than the rule requires, it could effect the statistics.

5. Conclusions. I realize that this matter is a part of our interim project, but I wanted to respond to your request to me on this matter. I shall keep a copy of this for our interim project.

Obviously my remarks herein are cursory, but I hope they are at least responsive to your initial work request.

cc. given to Rocky for interim coordination.

Peggy - pls enlighten me when you have time Charlie

Memorandum

Alaska Court System

RECEIVED
... 1979
Office of Administrative Director
Alaska Court System

TO: Arthur H. Snowden, II
Administrative Director

DATE: January 29, 1979

FROM: Merle P. Martin MPM
Manager of Technical Operations

SUBJECT: Small Claims Data

Following is the data you requested:

1. Percent District Court filings that are small claims.

Location	1977	1978
Anchorage	51%	57%
Fairbanks	46%	51%
Juneau	78%	83%
TOTAL	53%	59%

#10,000 - District Court

Small claims are becoming a larger portion of District Court civil matters. However, a recent study of ours shows that, for those cases filed in Anchorage under normal civil (rather than small claims) procedure, 28 percent were less than $1,000 and 23 percent were between $1,000 and $2,000. It is too early to tell what effect the increase in the small claims limit to $2,000 will have on that 23 percent figure.

2. Filing per month.

masters or magistrates

	Location	1977	1978	% Increase
	5 do night court - DA / selling			
8	Anchorage	224	325	45%
4	Fairbanks	42	60	43%
/	Juneau	46	63	37%
	TOTAL	312	448	44%

The 1978 figures are only through the first nine months of the year. So the impact of the $2,000 limit is not included. Yet, even without the increases in small claims filings expected from the higher limit, in filings per month increased over 40 percent from 1977 to 1978.

Civil Rule call of cal. 41 want of prosecution

execution + exemptions with judgment

Adm. F-1
Rev. 2-73

3. Days between filing and disposition.

Location	1977	1978	(decrease) % Increase
Anchorage	217	195	10%
Fairbanks	270	210	22%
Juneau	134	103	23%
TOTAL	213	184	24%

There has been a decrease in small claims disposition times. Small claims take 24 more days to dispose other civil matters in Anchorage. However, small claims are disposed of faster in Fairbanks (29 days) and Juneau (208 days).

than ?

4. Trial Rate.

Location	1977	1978
Anchorage	14%	6%
Fairbanks	8%	3%
Juneau	8%	11%
TOTAL	12%	8%

The trial rate has decreased in Anchorage and Fairbanks and has increased in Juneau.

5. Percent disposition for the plaintiff.

Location	1977	1978
Anchorage	43%	50%
Fairbanks	32%	39%
Juneau	48%	57%
TOTAL	42%	49%

The Percent of dispositions in favor of the plaintiff increased in all three locations from 1977 to 1978. Interestingly, the percent of cases filed under regular civil procedure (rather than small claims) and for which the disposition is in favor of the plaintiff are higher in Anchorage and Fairbanks than the like percentage for small claims. Yet plaintiff disposition rate is higher for small claims than for other civil cases in Juneau.

diff in judges?

cc: Leanne Culp

SMALL CLAIMS DATA -- ADDENDUM February 2, 1979

Small Claims disposition times for those cases going to trial are as follows:

	Average	Median
Anchorage	127	92
Fairbanks	127	120
Juneau	64	54

This is to be compared to Small Claims disposition times for those cases not going to trial as follows:

	Average	Median
Anchorage	233	105
Fairbanks	281	159
Juneau	140	39

settlement - not notify court
no answer, fail to default for some time.

PROPOSED AMENDMENTS TO HCSSB 104

AMENDMENT NO. 1

SUBJECT: District Court Criminal Appeals

Providing: (1) One appeal by right to Superior Court;

(2) Discretionary review by intermediate and Supreme Court.

Page 1 Lines 14-16.

Sec. 22.07.020. JURISDICTION. (a) The court of appeals has appellate jurisdiction in actions and proceedings commenced in the district or superior court involving:

Lines 25-28.

(b) The court of appeals [HAS APPELLATE JURISDICTION IN ALL ACTIONS AND PROCEEDINGS COMMENCED IN THE DISTRICT COURT AND] may, in its discretion, remand a district court matter to the district or superior court for a trial de novo in whole or in part.

Page 2 Lines 7-11.

(e) An appeal to the court of appeals is a matter of right [IN ALL] only in those actions and proceedings within its jurisdiction that are commenced in the superior court, except that the state has no right of appeal in criminal cases except to test the sufficiency of the indictment or information or to appeal a sentence on the ground that it is too lenient under (d) of this section.

(f) The court of appeals may in its discretion review a final decision of the superior court rendered in an appeal from a district court matter that is within the jurisdiction of court of appeals under AS 22.07.020.

[(f)] (g) A final decision of the court of appeals is binding on the superior court and on the district court unless superseded by a decision of the supreme court.

(h) The supreme court shall prescribe rules of procedure for appeals to the court of appeals.

Page 5 Lines 7-13.

Sec. 22.05.010. JURISDICTION. (a) The supreme court has final appellate jurisdiction in all actions and proceedings. [HOWEVER, A PARTY HAS ONLY ONE APPEAL AS A MATTER OF RIGHT FROM AN ACTION OR PROCEEDING COMMENCED IN EITHER THE DISTRICT OR THE SUPERIOR COURT.]

(b) Appeal to the supreme court is a matter of right only in those actions and proceedings [FROM WHICH THERE IS NO RIGHT OF APPEAL TO THE COURT OF APPEALS UNDER AS 22.07.020] not within the jurisdiction of the court of appeals under AS 22.07.020.

Page 7 Lines 19-29 and Page 8 Lines 1-13.

Delete Sec. 7 (proposed amendments to AS 22.10.020(a) relating to jurisdiction of the superior court).

Page 10 Lines 2-11.

Sec. 22.15.240 APPEAL. (a) Either party as a matter of right may appeal a judgment of the district court in a civil action to the [COURT OF APPEALS] superior court. [WHEN THE SUM IN CONTROVERSY IS NOT LESS THAN $50, OR FOR THE RECOVERY OF PERSONAL PROPERTY OF THE VALUE OF NOT LESS THAN $50 EXCLUSIVE OF COSTS IN EITHER CASE, EXCEPT WHEN THE SUM IS GIVEN BY CONFESSION OR WANT OF ANSWER.]

(b) The defendant may appeal a judgment of conviction [GIVEN] rendered in the district court in a criminal action to the [COURT OF APPEALS] superior court. When the judgment is given or a plea of guilty, no appeal may be taken (. . . etc.).

Lines 17-20. (Note: cross-reference to page 8, lines 11-13)

(c) An appeal from the district court shall be taken within thirty days from the date of entry of the judgment. All appeals shall be on the record unless the superior court, in its discretion, grants a trial de novo, in whole or in part.

Page 15 Lines 17-27.

Delete (Concurrent jurisdiction of superior court and court of appeals over district court criminal appeals pending at the time the act goes into effect).

PROPOSED AMENDMENTS TO HCSSB 104

AMENDMENT NO. 1 (Alternate)

SUBJECT: District Court Criminal Appeals

Providing: (1) Appeal by right to Superior Court;

(2) Appeal by right to the Court of Appeals from an appeal decision by the Superior Court.

Page 1 Lines 14-16.

Sec. 22.07.020. JURISDICTION. (a) The court of appeals has appellate jurisdiction in actions and proceedings commenced in the district or superior court involving:

Page 2 Lines 14-15.

(g) The supreme court shall prescribe rules of procedure for appeals to the court of appeals.

Page 5 Lines 7-10.

Sec. 22.05.010. JURISDICTION. (a) The supreme court has final appellate jurisdiction in all actions and proceedings. [HOWEVER, A PARTY HAS ONLY ONE APPEAL AS A MATTER OF RIGHT FROM AN ACTION OR PROCEEDING COMMENCED IN EITHER THE DISTRICT OR THE SUPERIOR COURT.]

PROPOSED AMENDMENTS TO HCSSB 104

AMENDMENT NO. 2

SUBJECT: Compensation of Court of Appeals Judges

Providing: (1) Individual responsibility for opinion or decision within six months of date of referral.

Page 4 Lines 26-29 and Page 5 Line 1.

"(b) A salary warrant may not be issued to a judge of the court of appeals until he has filed with the state officer designated to issue salary warrants an affidavit that no matter referred to the judge for opinion or decision has been incompleted or undecided by him for a period of more than six months."

PROPOSED AMENDMENTS TO HCSSB 104

AMENDMENT NO. 3

SUBJECT: Judicial officers as delegates to Alaska Constitutional Convention

Providing: (1) Supreme, superior, and district court judges may file for election as delegate to Constitutional Convention.

Page 7 Lines 18-19. (Insert new section as follows:)

Sec. 22.05.130. RESTRICTIONS. A supreme court justice while holding office may not practice law, nor engage in the conduct of any other profession, vocation or business for profit or compensation, which conduct would interfere with his performance of his judicial duties, nor may he hold office in a political party, or hold any other office or position of profit under the United States, the state, or its political subdivisions. A supreme court justice filing for another elective public office other than delegate to a constitutional convention of this state or the United States forfeits his judicial position.

Page 9 Lines 8-9. (Insert new section as follows:)

Sec. 22.10.180. RESTRICTIONS. A superior court judge while holding office may not practice law, nor engage in the conduct of any other profession, vocation or business for profit or compensation, which conduct would interfere with his performance of his judicial duties, nor may he hold office in a political party, or hold any other office or position of profit under the United States, the state or its political subdivisions. A superior court judge filing for another elective public office other than delegate to a constitutional convention of this state or the United States forfeits his judicial position.

Page 9 Line 29. (Insert new section as follows:)

Sec. 22.15.210. RESTRICTIONS. (a) A district judge, while holding office, may not practice law, nor engage in the conduct of any other profession, vocation or business for profit or compensation, which conduct would interfere with his performance of his judicial duties, nor may he hold

office in a political party, or hold any other office or position of profit under the United States, the state or its political subdivisions, except that, with the approval of the chief justice of the Alaska Supreme Court, the district judge may be appointed deputy clerk of the superior court and may hold the office of United States magistrate. A district judge who files for another elective public office <u>other than delegate to a constitutional convention of this state or the United States</u> forfeits his judicial position.

PROPOSED AMENDMENTS TO HCSSB 104

AMENDMENT NO. 4

SUBJECT: Qualifications for district court judge

Providing: (1) One-year residency requirement

(2) Two-year practice of law requirement

Page 9 Lines 11-14.

(a) A district court judge shall be a citizen of the United States and of the state, at least 21 years of age, a resident of the state for at least one year immediately preceding his appointment, have been engaged for not less than two years immediately preceding his appointment in the active practice of law, and at the time of his appointment be licensed to practice law in the state. The active practice of law shall be as defined for supreme court justices.

PROPOSED AMENDMENTS TO HCSSB 104

AMENDMENT NO. 5

SUBJECT: Effective date of Court of Appeals Bill

Providing: (1) Immediate effective date;

Page 16 Lines 15-16.

*Sec. 37. This Act takes effect immediately in accordance with AS 01.10.070(c).

LA21 1366 12.54 JA01 0017 12.54 03/12/79

TO: FAIRBANKS DELEGATION & REP. MOSS

FROM: HUGH H. CONNELLY
TANANA VALLEY BAR ASSOCIATION
604 BARNETTE
FAIRBANKS, ALASKA 99701

RE: SB 104

MESSAGE: THE TANANA VALLEY BAR ASSOCIATION, WITH ONLY TWO DISSENTING VOTES OPPOSED PASSAGE OF SB 104 DURING THE CURRENT SESSION. WE REQUEST THAT IT BE CONSIDERED NEXT SSSION. WE WILL FOLLOW WITH A LETTER WHICH WILL HAVE NUMEROUS AMENDMENTS WHICH WE BELIEVE MERIT CONSIDERATION.

FBKS LIO/AW/EOM

fr Bill file

M E M O R A N D U M January 18, 1980

TO: House Judiciary Committee

Rep. Charles H. Parr, Chairman
Rep. Nels A. Anderson, Jr., Vice Chairman
Rep. Ramona L. Barnes
Rep. Fred E. Brown
Rep. Thelma Bucholdt
Rep. Hugh Malone
Rep. Terry Martin
Rep. Patrick M. O'Connell
Rep. Randy Phillips

FROM: Grant Callow
Alaska Court System

SUBJECT: Revised Supreme Court Caseload Statistics, 1979

Attached are copies of two recent memoranda prepared and circulated by Robert D. Bacon, Clerk of the Suprme Court. The first two pages of Mr. Bacon's statistics provide a brief summary of Supreme Court activity in 1978 and 1979, showing that caseloads have continued to rise. I have also attached a detailed breakdown of filings and dispositions showing trends in the various categories of cases.

I have also attached a press release issued upon publication of the Supreme Court's 2000th opinion. It provides an overall picture of the court's activity since statehood. I have highlighted some important points.

Finally, I have prepared updates of graphs contained in the 1978 Court System Annual Report (pp. A-4, A-5) which also help to illustrate caseload trends.

GC

M E M O R A N D U M   January 8, 1980

TO: Chief Justice Rabinowitz
Justice Connor
Justice Boochever
Justice Burke
Justice Matthews
Senior Justice Dimond
Arthur H. Snowden II
Grant Callow
Merle Martin
Dick Emerman
Stephanie Cole
Connie Staska
Caroline Hudnall

FROM: Robert D. Bacon

SUBJECT: December 1979 Statistics

Attached is the usual Supreme Court statistical information for the month of December.

Detailed statistical in--rmation for the full calendar year 1979 will be prepared and distributed by this office within the next few weeks. Some preliminary, unaudited highlights follow.

	1978	1979	% Change
Filings & Reinstatements	630	656	+ 4
Dispositions	560	634	+13
Pending end of year	624	646	+ 4
Opinions published	237	234	- 1
MO&Js issued	15	38	+153
Opinions & MO&Js	252	271*	+ 8

The court is indeed working harder and falling further behind. The 646 pending cases on December 31 compares with an alltime high of 649 last July.

The court only denied two petitions for review in December, State v. A.P.E.A., No. 4963 (the probation officers' guns case), and North Slope Borough v. Hammond, No. 5034 (the Beaufort Sea case).

RDB

---

* Lyle v. State, No. 3162, was initially decided by an MO&J, which was then published as an opinion. It is counted among both the opinions and the MO&Js, but only once in the total.

TABLE II
ALASKA SUPREME COURT
December 31, 1979

	Civil Appeals	Criminal Appeals	Sentence Appeals	TOTAL APPEALS	Petitions for Review	Originals	TOTAL ALL CASES
PENDING DECEMBER 31, 1978	297	209	51	557	61	6	624
FILED OR REINSTATED THRU 11-30, 1979	272	123	37	432	126	36	594
FILED OR REINSTATED THIS MONTH	33	10	3	46	15	1	62
TOTAL FILED YEAR-TO-DATE	305	133	40	478	141	37	656
Adjustments	-2	-3	+3	-2	+2		0
DISPOSITIONS							
A. By Opinion and Mandate/Published							
Affirmed	63	46	34	143	7	1	151
Affirmed in Part/Reversed or Remanded in Part	8	14	5	27	3		30
Reversed	7	3		10	9		19
Reversed and Remanded	35	17	1	53	6		59
Remanded Only	6	4	2	12	1		13
Sentence Too Lenient				0			0
Bar Disciplinary Action				0		2	2
B. By Memorandum Opinion & Judgment							
Affirmed	18	12	1	31			31
Reversed	1	3	1	5			5
C. By Summary Order							
Affirmed		1		1	4	1	6
Reversed or Reversed & Remanded				0	4	2	6
Other	3		1	4	6	6	16
TOTAL DISPOSITIONS ON MERITS	141	100	45	286	40	12	338
D. Petitions for Review/Originals Denied					80	20	100
E. Dismissals							
By Agreement or by Appellant	71	21	7	99	11		110
By Court	32	16	2	50	19	2	71
On Motion	10	2	1	13		2	15
TOTAL DENIALS AND DISMISSALS	113	39	10	162	110	24	296
TOTAL CASE DISPOSITION	254	139	55	448	150	36	634
Reasons for Cases Pending 12-31, 1979							
Awaiting Record	70	19	2	91			91
Awaiting Briefs	106	83	11	200	8	2	210
With Central Staff	4	4	4	12	4		16
Awaiting Hearing/Submission	20	8	3	31	3		34
Awaiting Draft Opinion	69	44	6	119	10	3	132
Draft Opinion Circulating	57	30	12	99	8	1	108
Awaiting Decision on Granting P/R or Orig.				0	21		21
Awaiting Mandate or Decision on Rehearing	12	4		16		1	17
Stayed or Remanded	8	8	1	17			17
TOTAL CASES PENDING 12-31, 1979	346	200	39	585	54	7	646

TABLE I

ALASKA SUPREME COURT

1979 STATISTICAL SUMMARY THROUGH DECEMBER 31, 1979

Total Cases Pending: December 31, 1978	624
Cases Filed or Reinstated, 1979	656
Dispositions on Merits to December 31, 1979	
By Opinion and Mandate	274[a]
By Memorandum Opinion & Judgment	36
By Summary Order	28
Total Dispositions on Merits	338
Other Dispositions to December 31, 1979	
Dismissals	196
Petition or Application Denied	100
Total Other Dispositions	296
Cases Pending December 31, 1979	646
Reasons for Cases Pending	
Awaiting Record	91
Awaiting Briefs	210
Awaiting Hearing or Submission	50[b]
Submitted/Awaiting Draft Opinion	132
Submitted/Draft Opinion Circulating	108
Awaiting Decision on Granting Petition for Review	21
Awaiting Mandate or Decision on Rehearing	17
Stayed or Remanded	17
Total Pending December 31, 1979	646

a 234 opinions have been published to date. The numbers differ because in consolidated cases and cross-appeals, more than one case is often disposed of in a single opinion. Moreover, opinions published late in December of one year do not produce case dispositions until the mandate is issued in the following year.

b Of these cases, 16 were pending with the central staff.