

ALPHA STATION
CONTROL POINT
7100

1646
HT SB 744 - SUR 75

Senator M. E. Bankworth

March 11, 1982

Page 8

I have attached a draft Committee Substitute for the bill which incorporates the changes suggested in this letter.

I hope this answers your questions about the Department's FY 83 funding needs for oil and gas litigation. If you have any further questions or information need, please feel free to call me at any time.

Very truly yours,

A handwritten signature in cursive script that reads "Wilson L. Condon".

Wilson L. Condon
Attorney General

WLC:vrh

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Cook ✓
4/8/82

Original sponsor: Ray

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
 2 HOUSE CS FOR SENATE BILL NO. 765 (Judiciary)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 TWELFTH LEGISLATURE - SECOND SESSION
 5 A BILL

6 For an Act entitled: "An Act exempting the importation of sacramental wine
 7 for religious purposes from a prohibition on the im-
 8 portation of alcoholic beverages into municipalities or
 9 villages."

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

11 * Section 1. AS 04.11.496(b) is amended to read:
 12 (b) If a majority of the voters vote "yes" on the question set out
 13 in (a) of this section, a person, beginning on the first day of the
 14 month following certification of the results of the election, may not
 15 knowingly send, transport, or bring an alcoholic beverage [BEVERAGES]
 16 into the municipality or established village, unless the alcoholic
 17 beverage is sacramental wine to be used for bona fide religious purposes
 18 based on tenets or teachings of a church or religious body, is limited
 19 in quantity to the amount necessary for religious purposes, and is dis-
 20 dispensed for religious purposes by a person authorized by the church or
 21 religious body to dispense the sacramental wine. The board shall be
 22 notified immediately after certification of the results of the election
 23 and thereafter may not issue, renew, or transfer between holders or
 24 locations a license for licensed premises located within the boundaries
 25 of the municipality and within unincorporated areas within five miles of
 26 the boundaries of the municipality or within the perimeter of the
 27 established village. Licenses that [WHICH] may not be renewed because
 28 of a local option election held under this section are void 90 days
 29 after the results of the election are certified. A license that [WHICH]

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will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

ALASKA LEGAL SERVICES CORPORATION

615 "4" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-9431

February 8, 1982

HAND-DELIVERED

The Honorable Bill Ray
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ray:

As discussed in our conversation of February 5, 1982, the ability legally to obtain sacramental wine is a matter of serious concern in communities which have held or are considering holding state Title 4 alcohol local option elections to prohibit the sale and importation of alcoholic beverages. As A.S. 04.11.496 is currently written, the statute sets out no exception to provide for the contingency of sacramental wine to be used for religious services once a municipality or established village has held a valid election to prohibit the sale and importation of alcoholic beverages. This puts church officials in the peculiar position of having to violate the law to bring wine for religious services into villages which have held elections.

In a great many of the sixty or so villages to which the ALSC Alcohol Project staff and I, upon village request, have travelled, the issue has been raised by numerous village residents as well as Roman Catholic and Russian Orthodox priests. In particular, the problem was recently called to our attention by Brown Jug when the church in St. Mary's placed an order with them. Brown Jug was understandably loath to risk the local option law penalties. We have checked the statutes of other states which have alcohol local option laws similar to Alaska. Each state statute researched has an express exception for sacramental wine as part of the statutory scheme.

In these statutes (which I will be delighted to provide if you are interested), the sacramental wine exceptions to prohibition limit acquisition of sacramental wine to officials or authorized representatives of churches or bona fide religious organizations for use and dispensation in bona fide religious ceremonies and rituals. The sacramental wine exception has been, in other states, simply written or can involve complicated procedures involving affidavits and package labelling.

Honorable Bill Ray
Page Two
February 8, 1982

In drafting the enclosed sacramental wine exception, we have opted for a simply written exception adding a new subsection (d) to A.S. 04.11.496.

As indicated in our conversation of February 5, 1982, you will be hearing from some of the people and groups who brought this problem to our attention.

Thank you for agreeing to introduce this piece of legislation.

Please call me if you have any questions or I can otherwise be of assistance.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION

Carole A. Baeky /BT

Carole A. Baeky
Statewide Alcohol Coordinator

CAB/js

Enclosure

PROPOSED AMENDMENT TO A.S. 04.11.496

(Sacramental Wine Exception)

A.S. 04.11.496 is amended by adding a subsection (d) which reads as follows:
NOTHING IN THIS SECTION SHALL PREVENT THE IMPORTATION, POSSESSION, AND DISPENSATION OF WINE FOR SACRAMENTAL PURPOSES ONLY BY AN AUTHORIZED REPRESENTATIVE OF ANY CHURCH OR BONA FIDE RELIGIOUS ORGANIZATION. SUCH IMPORTATION SHALL BE LIMITED TO QUANTITIES NECESSARY FOR USE IN BONA FIDE RELIGIOUS CEREMONIES OR RITUALS.

St. Matthew's Episcopal Church

1030 Second Avenue Fairbanks, Alaska 99701



February 3, 1982

The Rev. Donald P. Hart, Rector

Senator Bill Ray
Fouch V (H53100)
Juneau, Alaska 99811

Dear Senator Ray:

My attention has been directed to a problem in villages which have passed ordinances prohibiting the importation or use of alcohol. The problem has to do with the use of sacramental wine in services of the church.

As I am sure you know, several churches, the Episcopal, Roman Catholic, and Orthodox Churches, as well as others perhaps, use wine as a part of their primary worship. This is based on Biblical roots, ancient rites, and historic useage. In some cases where priests must come from other locations they are probably bringing a sufficient supply of wine for the service with them. In most normal cases the consumption of wine amounts to a single sip from the chalice for each communicant per service.

While this situation could be overlooked and the law simply not enforced in regard to priests, this would put them in a very peculiar position outside the law. I think this is not what priests want. An amendment to the law, allowing an exception, for sacramental use, would be much more preferred.

Bishop Harris is out of the State at this time. As president of the Diocesan Standing Committee I write to you on behalf of this Diocese. My thanks for your attention to this matter.

Sincerely,

Donald P. Hart
President of the Standing Committee

cc. The Rt. Rev. George C. Harris

HOLY CROSS MISSION

HOLY CROSS, ALASKA

99602

February 8, 1982

Senator Bill Ray
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ray:

I have high praise for the work that Carol Baekey has done regarding the Alcohol Local Option Law. However, as I have mentioned to her, I find its present wording unsatisfactory, and possibly even unconstitutional. What am I referring to?

Taken in its literal meaning, I find that I would be in violation of said law when, as a Catholic priest, I transport sacramental wine into any village which prohibits the importation of alcohol. Certainly, the use of sacramental wine in our liturgical service does not violate the intent of the law, but I feel this should be clearly stated in black and white.

Let me state a practical case for you. I order my sacramental wine every two years, four cases of four gallons each. I then divide this amount up between the three main villages I serve. Hence, I am importing wine into three villages. Above and beyond that, I generally carry a small bottle of sacramental wine in my Mass kit which is transported in my aircraft to the four or five other villages I frequent on occasion. And to extend that even further, I never know when I will be called upon to fly to other villages such as St. Mary's, Marshall, Emmonak, Alakanuk, Chevak, Etc. on Church business. Generally, my Mass kit will be in the aircraft and in it, a small amount of sacramental wine. Under the present law, if I were to remove my Mass kit in any village prohibiting the importation of alcohol, I am subject to a fine and confiscation of an aircraft.

What I am saying is that the present law involves a violation of my right to religious freedom, and hence, is unconstitutional taken in the strictest sense. I realize that the intent of the local option law is not to restrict sacramental wine and the proper use thereof. However, this should be clearly stated.

What is a practical solution? I don't think you can restrict the amount, for a priest serving three villages will obviously have to import more than a priest serving one village, and even on a one to one basis, the amount will vary. Why? Obviously, the size of the village has something to do with the amount of sacramental wine used a year, especially if communion is given under both species.

Hence, I think that sacramental wine (the importation and use thereof) should be restricted to authorized persons, i.e., persons designated by the Bishop. Notice that I do not restrict the importation to priests, the reason being that in many villages where a priest is not in residence, a layman will pick up the mail, freight, etc., and tend the Church in the priest's absence. The wine is generally kept

HOLY CROSS MISSION

HOLY CROSS, ALASKA

99602

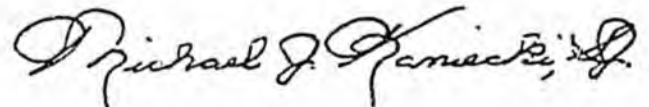
2.

at such a person's home.

These are just a couple examples to show you there is no simple solution. However, I do feel that there definitely must be some clause or provision for the importation and use of sacramental wine in villages which now have the right to prohibit the importation of alcohol.

Thank you for your time and interest in this matter.

Sincerely yours,



Michael J. Kaniecki, S.J.

cc: Carol Baekey
Bishop Whelan



J. Elliot P. Morrison
 Pastor
 Philip E. Gilbert
 Parish Associate
 Mary Ann Warden
 Lay Preacher

First Presbyterian Church

CUSHMAN AT SEVENTH TEL. 452-2406 FAIRBANKS, ALASKA 99701
 Mailing Address: 547 Seventh Ave.,

February 10, 1982

Senator Bill Ray
 Pouch V
 Juneau, AK 99811

Dear Senator Ray:

I do believe that barring wine from communion services in dry communities would be a bit of "overkill." Thus I encourage you to amend the bill for this technicality.

Grace and peace,

J. Elliot P. Morrison
 J Elliot P. Morrison
 JEPM/mm

City of St. Mary's

P.O. Box 163
ST. MARY'S, ALASKA 99658

February 8, 1982

Senator Bill Ray
Pouch #1
Juneau, Ak. 99811

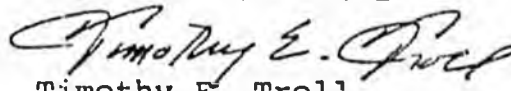
Dear Senator Ray:

I am enclosing for your reference a resolution recently passed by the City Council of St. Mary's regarding the importation of alcohol into communities for religious services. St. Mary's voted to prohibit the importation and sale of alcohol under the local option provisions of Title 4. St. Mary's, as you can probably judge from the name, is primarily a Catholic community. Recently the church had some difficulty bringing alcohol into the community because of the law. This is a technical oversight in the present law and I would encourage you to support an amendment to correct the situation.

I particularly want to thank you for your support of these local options in Title 4. The options have given rural communities like St. Mary's an opportunity to deal with alcohol in the manner that is most locally appropriate.

Sincerely,

CITY OF ST. MARY'S



Timothy E. Troll
City Manager

cc. John Sackett
Vern Hurlbert

RESOLUTION 82-5
OF THE CITY COUNCIL FOR
ST. MARY'S, ALASKA

WHEREAS: The City of St. Mary's in Emergency Ordinance 81-2 prohibiting the importation of alcoholic beverages into St. Mary's specifically provided exception for alcoholic beverages used in religious services; and

WHEREAS: The local option provisions of Alaska Statutes, Title 4 prohibiting importation do not provide exception for alcoholic beverages used in religious services; and

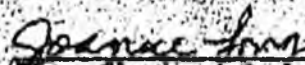
WHEREAS: Alcoholic beverages used in church services do not contribute to the problems caused by alcohol in village Alaska;

THEREFORE, BE IT RESOLVED that the Alaska State Legislature amend Alaska Statutes, Title 4 to provide that alcoholic beverages used in religious services may be imported into communities that have opted under the provisions of Title 4 to prohibit the importation of alcoholic beverages.

PASSED AND APPROVED by a duly constituted quorum of the City Council of St. Mary's Alaska this 12th day of Feb, 1982.


Mayor

ATTEST:


City Clerk

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 765am

Title Exempting importation of alcoholic beverages for religious purposes

Requested by House Judiciary Committee Date 2/26/82

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected Consumer Protection

BRU, Program, Or Subprogram(s) Affected ABC Board

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|------------------------|------------|------------|------------|------------|------------|------------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |
| | -0- | -0- | -0- | -0- | -0- | -0- |

POSITIONS

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

There will not be any fiscal impact on this BRU if this legislation is passed.

IV. DATE 3/3/82

PREPARED BY Patrick L. Sharrock, Director
AGENCY Alcoholic Beverage Control Board

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

PHONE 277-8638

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ANNOTATIONS TO POLICY LOAN INTEREST RATE BILL

A. General Discussion

The annotations elaborate on various aspects of the proposed language of the Bill.

The importance of substantial uniformity in enacting the Bill bears special emphasis. It cannot be too strongly urged that any material variation from the language of the Bill, particularly with respect to the index chosen, be carefully considered as to its impact on insurers issuing policies in more than one jurisdiction.

The Bill is intended to be an all inclusive law as to policy loan interest rates in order to achieve uniformity among the states. While some states have statutory specified maximum rates, other states are silent as to the maximum rate but may have usury laws applicable to policy loans. It is anticipated that the entire Bill will be enacted in each state and will replace any statutory language that currently applies to interest rates on policy loans.

B. Specific Discussion

The following sections key to the numbers set forth in the copy of the Bill preceding these annotations:

1. The Bill applies only to new policies issued after it is enacted. Thus, it will be some time before policies with indexed maximum interest rates on policy loans will be a substantial portion of any company's business and

have impact on the cash flow problems experienced periodically by reason of unusual policy loan activity. Section (b)(11) of AS 21.45.080, however, will permit the insurer and a holder of an outstanding policy to agree in writing to amend the policy so as to permit the application of provisions in accordance with the Bill.

2. An insurer would be required to include in a policy either an 8% maximum rate provision or an adjustable rate provision with a maximum based on an index. However, nothing in this Bill is intended to prevent an insurer from issuing all policies with an 8% maximum rate provision, all policies with an indexed maximum rate provision or some policies with one and some policies with the other.

3. A two-month period has been established between the time that is used as the monthly base for establishing the indexed rate and the time the adjustable indexed rate is determined and becomes effective. This two-month period is intended to give the insurer the necessary time in which to determine the actual rate to be charged at or below the maximum indexed rate as well as the time to notify policyholders with existing loans of any change in the rate reasonably in advance as required by subsection (c). Thus, for example, the monthly average for October is published by Moody's during the early part of November. An insurer during the remainder of November could determine the rate

that will be charged as of January 1 and take the administrative steps necessary to notify policyholders of any increase in the rate. Notices could be mailed on December 1 along with the premium notice or the policy loan or dividend statement. The rate would then become effective on January 1 as to all outstanding and new loans on or after that date.

4. This subsection provides for a floor under the indexed maximum rate approach, that is, a minimum on the maximum rate. Thus, whenever the index falls below the specified rate, the floor would apply. A minimum was considered necessary to ensure that the maximum policy loan interest rate would never be lower than the interest rate used to compute the policy's nonforfeiture values. In effect, the life insurer should, as a minimum, be able to charge an interest rate that is equivalent to the rate of interest earned by the policyholder on his policy's cash surrender values. This protects the insurer's solvency. An additional 1% has been added to the rate used to compute the nonforfeiture value in order to cover administrative expenses.

5. A policy issued with the indexed maximum rate provision must state how often the interest rate on policy loans may be changed by the company. That is, it must state whether the rate is to be determined quarterly, semiannually or annually.

6. The rate of interest on policy loans under the indexed maximum rate provision may be determined as often as every three months but must be determined by the insurer at least once a year. This permits flexibility so that each life insurer may choose a frequency of change compatible with the company's manner of doing business. The frequency with which a company intends to determine the interest rate is required to be included in the policy.

For example, if a company chose to determine interest rates once a year, it could do so by calendar or fiscal years or by policy anniversary dates. If a company chose to determine interest rates on a calendar year basis, the new rate, based on the average for October, would apply to loans outstanding or taken out on or after January 1 and would be in effect for the entire year. If policy anniversary dates were chosen, the company could establish a new rate every month for policies with anniversaries in that month and the new rate would continue for such policies until the next anniversary date. Thus, for such a company there could be twelve different rates set by reference to the indexed maximum but only one rate would apply to a particular policy from one anniversary to the next anniversary.

If a company chose to determine interest rates quarterly, it could do so on a calendar basis or by policy

anniversary dates. Thus, for example, a company could increase or decrease the interest rate as of January 1, April 1, July 1, and October 1 or at three month intervals during a policy year. The increase or decrease would be based on the index for the month ending two months would be October, January, April, and July, respectively. Rate changes would apply to all outstanding loans and new loans made after the effective date of the change but prior to the effective date of the next change.

7. Companies may increase their interest rate if the Moody's index is 1/2 of 1% or more above the rate actually being charged. Of course, a company is not required to increase the rate and may decide to keep the rate being charged well below the maximum permissible rate. This provision will prevent companies from changing the interest rate for insignificant amounts.

8. Companies are required to decrease the interest rate at the same frequency interval as they can increase the rate under the provisions of the policy whenever the indexed maximum rate is 1/2 of 1% or more below the rate actually being charged at that time. Thus, this subsection requires timely decreases in the rate as the index drops but is tempered by the 1/2 of 1% factor in order to avoid reducing the rate for an insignificant amount.

9. Provisions for notice have been established in order to protect the policyholder. Notice of the currently effective interest rate, whether the 8% maximum or indexed maximum is used, must be given at the time a cash loan is made. Advance notice of any increase in the policy loan interest rate must also be given to policyholders with outstanding loans affected by the increase. No advance notice is required of a decrease in the rate. Since it is not possible to provide advance notice with respect to automatic premium loans, notice should be given as soon as is reasonably practical after the rate is increased. Finally, all notices sent to policyholders must state the type of rate being used, that is, a maximum of 8% or the indexed maximum, and the frequency with which the company may change the variable rate.

10. Since, in many instances, it is impossible to tell in advance the amount of interest to be paid on a loan because of the flexible nature of the interest rate, there is the possibility, in situations where a maximum loan is taken, that a policy might lapse because of an increase in the interest rates. In order to avoid this possibility, the section now provides that a policy will not lapse during the policy year solely as a result of an increase in the interest rate during that policy year. The insurer must maintain coverage during that policy year until the time the

coverage would have terminated had the interest rate not been increased during that policy year. In other words, under these circumstances, the insurer must maintain coverage until the earlier of (1) the end of the policy year or (2) the time coverage would have terminated had the interest rate not been increased during the policy year. This provision along with the advance notice requirement gives the policyholder time to make sufficient payments to prevent termination of coverage.

11. The interest rate permitted on the reinstatement of policy loans for the period during and after the lapse of the policy shall be the same interest rate applicable to policy loans. This avoids the administrative complications that would ensue if a different rate were applicable to reinstatements of policy loans. However, interest on past due premiums would not be affected.

12. Since the Bill is intended as an all inclusive law as to policy loan interest rates, its provisions would be applicable to certificates issued by fraternal benefit societies. In almost all states they are governed by a separate code. The commercial insurance laws do not apply unless fraternal benefit societies are specifically mentioned. The provisions of the Bill are also applicable to annuity contracts when loans are provided for by such contracts.

13. Automatic premium loans are to be treated in the same manner as cash loans on a policy and would be subject to the same interest rate.

14. The Moody's Corporate Bond Yield Average - Monthly average Corporates was chosen as the index because it generally corresponds to the rates available to insurers on new long-term investments and consequently, its use promotes equity between policyholders who do borrow and those who do not. It is generally a smooth and stable long-term rate not subject to the volatile highs and lows from month to month of the various short-term rates. Nevertheless, it is responsive to the changing interest rates in the economy. Another factor in choosing this particular index is that it is the index adopted by the NAIC for its Model Standard Valuation and Nonforfeiture laws. Moreover, it is widely recognized and readily available. The monthly average is published by Moody's Investors Service, Inc. within a few days of the close of the calendar month. Thus, a policyholder or regulator could readily determine the maximum policy loan interest rates at any given moment.

15. Although Moody's Investors Service, Inc. has published the Corporate Bond Yield Average - Monthly Average Corporates for many years, this provision permits a similar index to be substituted in the event that Moody's or any successor thereto no longer publishes this particular index.

A substitute must be promulgated by the Director of Insurance in a regulation which would promote greater uniformity than a state by state determination and would also have a more permanent effect.

16. This section makes it clear that policies in existence prior to the effective date of the Bill could be amended, with the written agreement of the policyholder, to include the provision of the Bill.

17. The only change made in this section is a reference to the provisions of the loan interest provisions for computation of the amount to be paid on reinstatement.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 25, 1982

The Honorable Ramona Barnes
Chairperson
House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative *Ramona* Barnes:

I am writing to suggest that to the extent time permits in your committee's work on CSSB 535 consideration be given to the inclusion of provisions dealing with the subject of witness immunity in criminal prosecutions. As you may recall, I have submitted legislation in the past on this subject. It was favorably acted upon in the House but subsequently defeated in the Senate.

More recently during the course of a complex grand jury investigation, the state obtained a ruling from the Alaska Supreme Court that even in the absence of legislation the state could compel a witness to testify who asserted the privilege against self-incrimination through a conferral of immunity. The Supreme Court, however, subsequently ruled that the form of immunity which must be granted must be "transactional." This means that in order to obtain necessary testimony an individual must be given a full grant of immunity from prosecution for the subject matter of his testimony. The court imposed this requirement as a "rule of practice" rather than as a constitutional requirement. The state had contended that a lesser form of immunity, referred to as "use immunity", was all that is constitutionally required to substitute for the privilege against self-incrimination. The court, however, did not decide the constitutional question and the form of immunity which must be conferred in order to obtain testimony is therefore still a proper subject for legislative resolution.

Upon making inquiry, State Troopers in Anchorage recently advised me that they believed the problems which were encountered in the recent prosecutions in Anchorage in the Walker and Hopkins cases demonstrated the need for immunity legislation. After subsequent discussions with the Department of Law I fully share that belief. I also believe that these cases demonstrate why "use immunity" is

preferable to "transactional" as a matter of public policy. At present, Alaska is one of the very few jurisdictions which does not have a statutory framework for obtaining necessary testimony in criminal cases by providing immunity to witnesses. The National Advisory Committee on Criminal Justice Standards and Goals recommended in its Report of the Task Force on Organized Crime, released in December of 1976, that

States should enact or revise legislation to provide for immunity from the use of compelled testimony by witnesses before a grand jury, investigating commission, or State court having felony jurisdiction. These witnesses should receive only "use" immunity -- i.e., they should be immunized only from the use of evidence derived directly or indirectly from the compelled testimony.

Particularly with offenses that are conspiratorial in nature and committed under a high degree of secrecy by sophisticated or professional criminals, the key tool available in successfully solving and prosecuting the crime is the ability to compel testimony from a less culpable participant or an uncooperative witness.


The technical distinctions between the two types of immunity are usually understood only by persons trained in law. However, as a result of the publicity generated by two recent trials in Juneau, it is fair to say that Alaska citizens know far more about witness immunity than most people. In talking with members of the public it is clear that most citizen's notions of common sense are offended by the idea that under a "transactional" immunity standard, a convicted perjurer, for example, can be set completely free simply because his testimony is used to convict a co-defendant in a later trial. That result would not have occurred if the required immunity was "use and derivative use."

I have enclosed a draft of suggested amendments to CSSB 535 that would, if adopted, enact a "use immunity" statute in Alaska. These provisions are patterned after current federal law enacted in the Organized Crime Control Act of 1970. The constitutionality of this statute has been specifically upheld by the United States Supreme Court. While the Alaska Supreme Court has to date declined to decide the question, I am advised that there is good reason to conclude that such a statute would be upheld under the Alaska Constitution. The enclosed draft has been prepared at my request by the Chief Prosecutor who will be available to work with you and your committee on this subject if you wish. While I know the hour is exceedingly late, because of your demonstrated diligence and concern for matters of this nature plus the crescendo of current public interest, I am hopeful that in the time remaining in the current session

May 25, 1982

your committee will be able to address this important addition to CSSB 535 along with the amendments to the insanity defense on which I know your committee has already expended considerable effort.

Sincerely,



Jay S. Hammond
Governor

cc: Daniel W. Hickey
Chief Prosecutor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSD 841 (L&C)
 Title An act relating to insurance policy provisions on policy loans
 Requested by Labor and Commerce Committee Date 4/8/82
reinstatement of policies; & providing for an effective date.

II. FISCAL DETAIL

Agency Affected Division of Insurance
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Division of Insurance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | 0 | | | | | |
| 200 TRAVEL | 0 | | | | | |
| 300 CONTRACTUAL | 0 | | | | | |
| 400 COMMODITIES | 0 | | | | | |
| 500 EQUIPMENT | 0 | | | | | |
| 600 LAND & STRUCTURES | 0 | | | | | |
| 700 GRANTS, CLAIMS, ETC. | 0 | | | | | |
| TOTAL | 0 | | | | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|------------------------|---|--|--|--|--|--|
| GENERAL FUND | 0 | | | | | |
| FEDERAL FUNDS | 0 | | | | | |
| OTHER (Specify Source) | 0 | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|---|--|--|--|--|--|
| FULL TIME | 0 | | | | | |
| PART TIME | 0 | | | | | |
| TEMPORARY | 0 | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE May 24, 1982

PREPARED BY Kenneth C. Moore, Div. of Insurance
AGENCY Commercial & Economic Development
 PHONE 465-2515

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

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LEGISLATIVE POSITION PAPER
SB 841
March 15, 1982

The Department of Commerce and Economic Development favors SB 841 if amended and recommends its passage.

The proposed legislation is based on a model law of the National Association of Insurance Commissioners. It would allow the use of either a fixed rate of interest on life insurance policy loans not to exceed 8% or the use of a flexible rate of interest which would be adjusted at least once a year based on an external index.

The current approach is to use a fixed rate of interest capped at 8%. This rate is generally lower than the cost of such loans and results in an impact on policyholders dividends since those funds in life insurance policy loans are not available for investment in more lucrative markets thus reducing income available for distribution as dividends. This impacts the ultimate net cost of life insurance. It also creates a subsidy of policyholders using the policy loan feature of the policy by those policyholders who do not use the policy loan feature.

The current cap has an impact on insurer liquidity thus impacting the flexibility they have in their investment portfolio. Income cannot be maximized which would accrue to the advantage of policyholders if it could be maximized.

Attached to this paper is a list of proposed amendments. Also attached is a section by section analysis and in some cases, a line by line analysis of the bill. The effect of proposed amendments is also explained in those comments.

E. W. Eboch 3/15/82

Edward W. Eboch
Deputy Commissioner

AMENDMENTS PROPOSED

On page 2, line 11
change "June 30" to read "July 1".

On page 2, line 13
following the word "issued" insert the words "on or".
change "June 30" to read "July 1".

On page 2, line 14
remove the words "permitting a maximum" and insert "specifying an".
remove the word "of" and insert "not to exceed".

On page 2, line 21
following the word "point" insert "a year".

On page 3, line 12
remove the word "because" and insert "as the sole result of the
change in"
remove the words "has changed".

On page 3, line 13
following the word "year" insert "; the insurer shall maintain
coverage during that policy year until the time at which the
policy would have terminated if there had been no change during
that policy year".

On page 4, line 2
following the word "made" insert "on or".
Change "June 30" to read "July 1"

On page 4, line 18
following the word "AS 21.45.080" insert "(c)".

COMMENTS

Introduced: 3/8/82
Referred: Labor & Commerce and
Judiciary

BY THE LABOR AND
COMMERCE COMMITTEE

NO CHANGES THIS PAGE

1 IN THE SENATE

2 SENATE BILL NO. 841

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance policy provisions on
7 policy loans and reinstatement of policies; and provid-
8 ing for an effective date."

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

10 * Section 1. AS 21.45.080(a) is amended to read:

11 (a) There shall be a provision that after three full years'
12 premiums have been paid and after the policy has a cash surrender value
13 and while no premium is in default beyond the grace period for payment,
14 the insurer will advance, on proper assignment or pledge of the policy
15 and on the sole security of the policy at a specified rate of interest
16 not exceeding eight percent a year, an amount equal to or, at the option
17 of the party entitled to it, less than the loan value of the policy.
18 The director may authorize rates of interest in excess of six percent
19 only on a finding that the holders of policies will benefit from the
20 increased earnings of the insurer resulting from the higher rates,
21 through the use of higher dividends or lower premiums, or both. The
22 loan value of the policy shall be at least equal to the cash surrender
23 value at the end of the then current policy year, except that the insurer
24 may deduct, either from the loan value or from the proceeds of the loan,
25 an existing indebtedness not already deducted in determining the cash
26 surrender value including interest then accrued but not due, the unpaid
27 balance of the premium for the current policy year, and interest on the
28 loan to the end of the current policy year. The policy may also provide
29 that if interest on an indebtedness is not paid when due it shall then

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1 be added to the existing indebtedness and shall bear interest at the
2 same rate, and that if and when the total indebtedness on the policy,
3 including interest due or accrued, equals or exceeds the amount of the
4 loan value of the policy, the policy shall terminate and become void.
5 The policy shall reserve to the insurer the right to defer the granting
6 of a loan, other than for the payment of a premium to the insurer, for
7 six months after the date of the loan application. The policy, at the
8 insurer's option, may provide for automatic premium loan, subject to an
9 election of the party entitled to elect. Except as provided in (e) of
10 this section, the required interest rates on policy loans set out in
11 this section apply only to policies issued before June 30, 1982.

12 * Sec. 2. AS 21.45.080 is amended by adding new subsections to read:
13 (c) A policy issued after June 30, 1982 shall have a provision
14 permitting a maximum interest rate on a policy loan of eight percent a
15 year.

On line 11, change "June 30" to read "July 1". Since the proposed effective date of this proposal is July 1, 1982, we feel that the use of July 1, in the language would be more consistent.

On line 13, following the word "issued", insert the words "on or" and change "June 30" to read "July 1".

On line 14, remove the words "permitting a maximum" and insert "specifying an", also delete the word "of" and insert "not to exceed".

This language change allows a policy loan interest rate up to 8% rather than requiring exactly 8% with nothing less permitted. This comports with the way it is done now and has been done in the past. It retains the "traditional" method of computing policy loan interest.

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16 | or a provision permitting an adjustable maximum interest rate
established under this subsection.

The principal component of this proposal is that it allows a life insurance company to use a policy loan interest rate that is adjustable subject to conditions set out in the proposal. The Insurer would have the option of offering a fixed rate of interest not to exceed 8% or of offering the adjustable rate of interest or both. The adjustable rate is based on an external index described in this section of the bill. The option selected must be described in the policy itself.

17 | An adjustable maximum rate of inter-
18 | est on a policy loan determined under this subsection may not exceed the
19 | higher of the published monthly average for the calendar month ending
two months before the date on which the rate is determined,

A two month period has been established between the time that is used as the monthly base for establishing the indexed rate and the time the adjustable indexed rate is determined and becomes effective. This two month period is intended to give the insurer the necessary time in which to determine the actual rate as well as the time to notify policyholders with existing loans of any change in the rate reasonably in advance as required on page 3, lines 2 - 6. Thus, for example, the monthly average for October is published by Moody's during the early part of November. An insurer during the remainder of November could determine the rate that will be charged as of January 1 and take the administrative steps necessary to notify policyholders of any increase in the rate. Notices could be mailed on December 1 along with the premium notice or the policy loan or dividend statement. The rate would then become effective on January 1 as to all outstanding and new loans thereafter.

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On line 21, following the word "point" insert the words "a year".

This clarification is needed since the period dealt with this provision could be as small as three months and as much as one year.

This provision provides for a floor under the indexed maximum rate approach, that is, a minimum on the maximum rate. Whenever the index falls below the specified rate, the floor would apply. A minimum is considered necessary to ensure that the maximum policy loan interest rate would never be lower than the interest rate used to compute the policy's nonforfeiture values. In effect, the life insurer should, as a minimum, be able to charge an interest rate that is equivalent to the rate of interest earned by the policyholder on his policy's cash surrender values. This protects the insurer's solvency. An additional 1% has been added to the rate used to compute the nonforfeiture value in order to cover administrative expenses.

A policy issued with the indexed maximum rate provision must state how often the interest rate on policy loans may be changed by the company. That is, it must state whether the rate is to be determined quarterly, semi-annually or annually.

The rate of interest on policy loans under the indexed maximum rate provision may be

or the rate
used to compute cash surrender values under the policy during the applicable period plus one percentage point.

If an adjustable maximum rate of interest is used in a policy under this subsection the policy shall contain a provision that states times for the adjustment of the interest rate for that policy.

Adjustment shall occur at least once every 12 months, but not more often than once every three months.

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determined as often as every three months but must be determined by the insurer at least once a year. This permits flexibility so that each life insurer may choose a frequency of change compatible with the company's manner of doing business. The frequency with which the company intends to determine the interest rate is required to be included in the policy.

For example, if a company chose to determine interest rates once a year, it could do so by calendar or fiscal years or by policy anniversary dates. If a company chose to determine interest rates on a calendar year basis, the new rate, based on the average for October, would apply to loans outstanding or taken out on or after January 1 and would be in effect for the entire year. If policy anniversary dates were chosen, the company could establish a new rate every month for policies with anniversaries in that month and the new rate would continue for such policies until the next anniversary date. Thus, for such a company, there could be twelve different rates set by reference to the indexed maximum but only one rate would apply to a particular policy from one anniversary to the next anniversary.

If a company chose to determine interest rates quarterly, it could do so on a calendar basis or by policy anniversary dates. Thus for example, a company could increase or decrease the interest rate as of January 1, April 1, July 1 and October 1 or at three month intervals during a policy year. The increase or decrease would be based on the

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index for the month ending two months prior to the change. For the calendar quarter example, the base months would be October, January, April, and July respectively. Rate changes would apply to all outstanding loans and new loans made after the effective date of change but prior to the effective date of the next change.

Companies may increase their interest rate if the Moody's index is 1/2 of 1% or more above the rate actually being charged. Of course, a company is not required to increase the rate and may decide to keep the rate being charged well below the permissible rate. This provision will prevent companies from changing the interest rate for insignificant amounts.

Companies are required to decrease the interest rate at the same frequency interval as they can increase the rate under the provisions of the policy whenever the indexed maximum rate is 1/2 of 1% or more below the rate actually being charged at that time. Thus, this provision requires timely decreases in the rate as the index drops but is tempered by the 1/2 of 1% factor in order to avoid reducing the rate for an insignificant amount.

26 | The interest
27 | rate being charged may be increased if the published monthly average
28 | increases by one-half percent or more

28 | and the interest rate being
29 | charged must be reduced if the published monthly average decreases by
30 | one-half percent or more.

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SB 841

1 | A life insurer shall (1) notify the policy-
2 | holder of the initial rate of interest on the loan at the time a cash
3 | loan is made; (2) notify a policyholder who obtains a premium loan of
4 | the initial rate of interest on the loan as soon as it is reasonably
5 | possible to do so after making an initial premium loan; except as
6 | provided in (3) of this subsection, notice does not have to be given to
7 | the policyholder when a second or subsequent premium loan is added; (3)
8 | send reasonable advance notice of any increase in the rate to a policy-
9 | holder who has a policy loan; and

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10 (4) include other relevant information on adjustment of interest rates in a notice required under this subsection.

Provisions for notice have been established in order to protect the policyholder. Notice of the currently effective interest rate, whether the 8% fixed maximum or indexed maximum is used, must be given at the time a cash loan is made. Advance notice of any increase in the policy loan interest rate must also be given to policyholders with outstanding loans affected by the increase. No advance notice is required of a decrease in the rate. Since it is not possible to provide advance notice with respect to automatic premium loans, notice should be given as soon as is reasonably practical after the rate is increased. Finally, all notices sent to policyholders must state the type of rate being used, that is, a maximum of 8% or the indexed maximum, and the frequency with which the company may change the variable rate.

11 The loan value of the policy shall be determined in accordance with (a) of this section.

This proposal does not act as a repealer of the current statutory provisions relating to the loan value of the policy which is found in AS 21.45.080(a) on page 1 and 2 of this proposal.

12 A policy may not be terminated in a
13 policy year because the interest rate has changed during that policy year.

On line 12 delete the word "because" and insert the words "as the sole result of the change in" also remove the words "has changed"

On line 13, following the word "year" remove the period and add "; the insurer shall maintain coverage during that policy year until the time at which the policy would have terminated if there had been no change during that

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policy year".

This provision lost something in the drafting which hopefully this correction will resolve. Since, in many instances, it is impossible to tell in advance the amount of interest to be paid on a loan because of the flexible nature of the interest rate, there is the possibility, in situations where a maximum loan is taken, that a policy might lapse because of an increase in the interest rates. In order to avoid this possibility, this provision prevents a policy from lapsing during the policy year solely as a result of an increase in the interest rate during what policy year. The insurer must maintain coverage during that policy year until the time the coverage would have terminated had the interest rate not been increased during that policy year.

See comments on Sec. 3 of the bill.

Automatic premium loans are to be treated in the same manner as cash loans on a policy and would be subject to the same interest rate.

Moody's Investors Service, Inc. has published the Corporate Bond Yield Average - Monthly Average Corporates for many years. It was chosen as the index because it generally corresponds to the rate available to insurers

14 (d) In (c) of this section

15 (1) "interest rate" includes a rate of interest charged for
16 reinstatement of policy loans for the period during and after the lapse
17 of a policy;

18 (2) "policy" includes certificates issued by a fraternal
19 benefit society and annuity contracts that provide for policy loans;

20 (3) "policy loan" includes a premium loan made under a policy
21 to pay a premium that was not paid to the life insurer as it became due;

22 (4) "policyholder" includes an owner of a policy or a person
23 designated to pay policy premiums according to the records of the life
24 insurer;

25 (5) "published monthly average" means the monthly average of
26 corporate bond yields as published by Moody's Investors Service, Inc.,
27 or its successor, or if Moody's corporate bond yield average-monthly
28 average corporates is not published, a substantially similar average,
29 established by regulation adopted by the director.

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on new long term investments and consequently, its use promotes equity between policyholders who borrow against their policy and policyholders who do not borrow. It is generally a smooth and stable long-term rate not subject to the volatile highs and lows from month to month of the various short-term rates. Nevertheless, it is responsive to the changing interest rates in the economy. Another factor in choosing this particular index is that it is the index adopted by the National Association of Insurance Commissioners for its Model Standard Valuation and Nonforfeiture Laws. Moreover, it is widely recognized and readily available. The monthly average is published within a few days of the close of the calendar month. Thus, a policyholder or regulator could readily determine the maximum policy loan interest rates at any given moment.

The provision permits a similar index to be substituted in the event that Moody's or any successor thereto no longer publishes this particular index.

1 (e) The provisions of (c) of this section on interest rates apply
2 to all policy loans made after June 30, 1982 except that if a policy
3 holder agrees in writing to the applicability of (c) of this section to
4 a policy issued before July 1, 1981, that subsection applies to the
5 policy.

On line 2, following the word "made" insert "on or". Also change "June 30" to read "July 1".

This section makes it clear that policies in existence prior to the effective date of this proposal could be amended, with the written agreement of the policyholder, to include the provisions of this proposal.

COMMENTS

6 * Sec. 3. AS 21.45.110 is repealed and reenacted to read:

7 Sec. 21.45.110. REINSTATEMENT. Except as provided in AS 21.45.-
8 230, there shall be a provision that unless (1) the policy has been
9 surrendered for its cash surrender value, (2) its cash surrender value
10 has been exhausted, or (3) the paid-up term insurance, if any, has
11 expired, the policy will be reinstated at any time within three years
12 (or two years in the case of industrial life insurance policies) from
13 the date of premium default upon written application, the production of
14 evidence of insurability satisfactory to the insurer, the payment of all
15 premiums in arrears with interest at a rate not exceeding six percent a
16 year compounded annually, and the payment or reinstatement of interest
17 due to the insurer on a loan on the policy with interest as provided in
18 AS 21.45.080.

19 * Sec. 4. This Act takes effect July 1, 1982.
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29

On line 18, following "AS 21.45.080" add "(c)"

The interest rate permitted on the reinstatement of policy loans for the period during and after the lapse of the policy shall be the same interest rate applicable to policy loans. This avoids the administrative complications that would ensue if a different rate were applicable to reinstatements of policy loans. However, interest on past due premiums would not be affected.

POLICY LOAN BILL ENACTMENTS

(As of 5/21/82)

| | |
|---------------|----------------|
| Alabama | North Carolina |
| Arizona | North Dakota |
| Arkansas | Ohio |
| California | Oklahoma |
| Colorado | Oregon |
| Connecticut | Pennsylvania |
| Florida | Rhode Island |
| Idaho | South Dakota |
| Illinois | Tennessee |
| Indiana | Texas |
| Kansas | Utah |
| Maine | Vermont |
| Massachusetts | Virginia |
| Nebraska | Washington |
| Nevada | Wisconsin |

5/24/82 32 ENACTMENTS
3 Awaiting gubernatorial Action

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May 21, 1982

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The Honorable Ramona Barnes
Chairwoman
House Judiciary Committee
Pouch V
Juneau, AK 99811

Re: SB 841

Dear Representative Barnes:

All of us have been aware that in the last two or three years interest rates have fluctuated greatly, but mostly upwards. This is not an isolated occurrence, as there have been surges of interest rates on at least four occasions in the past 20 years. It has, however, been an unusually persistent and extreme upward surge, and it has caused a number of distortions and problems throughout the Alaskan and American economies. The Legislature has constantly reviewed the needs of the people of the State with regard to interest rates, and has begun to set maximum rates on a basis which adjusts automatically to known indexes.

One place where high interest rates have caused very substantial problems is in the life insurance industry. In the past several years, borrowings against company funds by a minority of policy holders, at rates which have been held artificially very low by statute, have caused distortions that are bad for the economy, could be dangerous to some companies, and are unfair to the majority policy holders. This letter is intended to introduce you to the problem and sister states.

NATURE OF THE PROBLEM

A survey of 15 representative large life insurance companies was conducted as of September, 1981. That survey showed that loans to policy holders at rates of 5%, 6%, and 8% in the month of September alone aggregated over \$750 Million for the 15 companies. This was 9% more than was lent the month before, and 82% more than was lent by the

The Honorable Ramona Barnes
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same companies in September of 1980. In 1980, net lendings to policy holders by the same 15 companies totaled nearly \$4 Billion. That was a benefit to the borrowers, of course, but everyone else lost.

The diversion of company funds to very low interest loans to some policy holders is dramatically unfair to those who do not borrow. As one might expect, the heavy borrowing is for the most part done by those policy holders who have very large policies and some degree of financial sophistication. A majority of policy holders do not borrow against their policies, but retain their values for the purposes originally intended, the security of dependents in the case of the death of the insured. Because the diversion of these funds for policy loans means a substantial decrease in earnings as well as liquidity, the companies are unable to lower their premiums or pay higher dividends, and that is an impact that reaches those who do not borrow just as much as it reaches those who do.

The surge of policy loans has also restricted investment capital, at a time when the country is short of capital. To the extent that companies' funds were tied up in low-rate loans, they have been unable to make the kind of capital investments that they are normally involved in. This, in itself, is a substantial distortion of the economy, since many companies planning plants, office buildings, real estate developments, and other investments have not been able to find alternative sources of funding.

Some companies, faced with an extraordinary and unprecedented demand for policy loan funds, have had to raise funds by sales of securities, often at substantial losses. Some companies have not been able to liquidate enough securities, and have had to borrow at rates up to 20% in order to loan at 5% to 8%. This sort of short term borrowing by life insurance companies is relatively unusual, and obviously cannot be undertaken as a long term practice. Depending upon such factors as long term interest trends and the ability of companies to extricate themselves from long term investments in order to maintain liquidity, this problem could threaten the solvency of some companies.

NATURE OF THE SOLUTION

The bill before you, SB 841, ties interest rates on policy loans to a conservative, stable index which is responsive to long term changes in interest rates. That index is Moody's Corporate Bond Average Yield Index. This index would be applicable only to loans against policies

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which are issued after the effective date of the act, unless a policy holder specifically agrees in writing that the flexible rate will apply to his earlier issued policy. Other provisions protect the policy holder by requiring specific notices of rate changes at appropriate times, and prohibiting unintended lapses of policy coverage because of interest rate changes.

The general approach used in this bill has been used successfully in Canada for over 10 years. Bills substantially identical to the one proposed were enacted in 1981 in 19 states.

In 1980, the Legislature inserted a requirement in the policy loan section that required the Director of Insurance to make a finding that a proposed policy loan rate would result in a benefit to the policy holder of decreased premium or increased dividend before a rate over 6% could be authorized. That protection will still be in the statute, and the companies have no doubt at all that the benefit will be there.

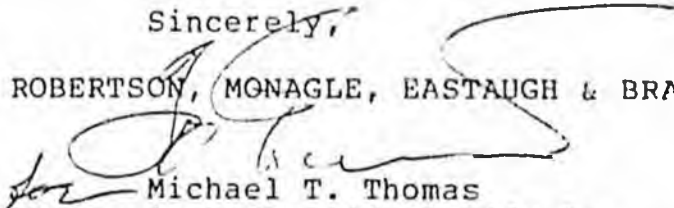
The bill is supported by life insurance companies of all kinds and sizes, by the American Council of Life Insurance, by the National Association of Life Underwriters, and by the Alaska State Association of Life Underwriters. This last support is noteworthy, since many life underwriters have been dubious about any proposal that could increase policy loan interest rates.

Accompanying this letter are a short memorandum explaining the bill, and a copy of the bill with annotations explaining particular provisions in the context of the overall proposal. A substantial amount of additional information concerning the impacts of the recent borrowing trends on the industry, and studies done in particular states about the impacts on companies in those states is available, and I would be happy to attempt to obtain any further information that you might find helpful.

I appreciate that you have many problems before you that seem to you more immediate and pressing. I would not push this bill in this particular year if we were not convinced of its necessity and fairness. Thank you for your consideration and support.

Sincerely,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY


Michael T. Thomas

For the American Council of Life Insurance

MTT/kmp
Enclosure

MEMORANDUM IN SUPPORT OF SB 841

PURPOSE OF THE BILL:

To expand the loan interest rate provision in life insurance policies, annuity contracts and fraternal benefit society certificates issued on and after the effective date of the bill to permit the offering of policies containing an adjustable maximum interest rate on policy loans.

SUMMARY OF THE PROVISIONS OF THE BILL:

AS 21.45.080 would be amended to authorize the issuance of policies with adjustable as well as fixed policy loan interest rates and a conforming amendment would be made to AS 21.45.110.

The adjustable provision would set the maximum rate on policy loans by reference to the Monthly Average Corporates yield shown in the Moody's Corporate Bond Yield Averages. The frequency with which the rates could be determined and adjusted would be limited. Provision would be made for increases and decreases in the maximum rate as conditions change. A reduction of the rate would be required when the index declined by 1/2%. Appropriate notices to policyholders of interest rate changes and protection against the termination of policies because of increases in the adjustable rate would be provided. Existing policyholders would be permitted to amend their policies to provide for the adjustable rate.

Any change in interest rate is subject to the requirement placed in the statute in 1980 that the Director of Insurance find that policyholders will benefit from higher dividends or lower premiums.

HOW THE BILL WORKS:

Companies for competitive and other reasons may continue to issue policies with a fixed interest rate, no more than 8%. The bill will also permit policies to be issued with a fully adjustable policy loan interest rate with the maximum to be set by reference to an external index. This will permit insurers to attempt to equalize yields on policy loans with other investments. While the bill permits flexible rates to meet changing conditions, it contains strict controls. It will allow companies to reduce premiums and increase dividends on future issues of policies which contain an adjustable provision. The bill would be applicable only to policies issued after its effective date but existing policyholders would be able to request that their policies be amended to provide for the adjustable rate.

A number of external indices, based on both short-term and long-term investment yields, were carefully examined for use in setting the maximum interest rate that could be charged on loans against a policy. It was concluded that the most appropriate would be the Monthly Average Corporates yield shown in Moody's Corporate Bond Yield Averages published by Moody's Investors Services, Inc. This index is based on a broad volume of seasoned long term corporate bonds traded in the market place. While it is responsive to changes in the investment market, it is relatively stable and does not swing widely from month to month as do some of the short-term rates. The Moody's series is widely recognized and respected. It has been adopted as the basis for valuation of life insurance policies and annuities by the National Association of Insurance Commissioners. Also, it is readily available to companies, regulators and individuals since the monthly average rates are published by Moody's Investors Service, Inc. in its Bond Survey shortly after the close of each month. Finally, and most importantly, this index corresponds quite closely to the yields available to life insurance companies on new long-term investments.

The bill contains provisions intended to protect the policyholder by means of notice requirements and protection against an unintended lapse in coverage due to the changing nature of the interest rate. Further, where an adjustable rate is used the maximum must go down as well as being permitted to increase when the index changes.

The bill represents a responsible solution to the policy loan problem and will be a major step toward preventing a serious recurrence of the problems which have been created by the existing fixed rate legislation. It reflects a careful balance between providing insurers with as much flexibility as possible to meet their own policy loan interest rate problems in future issues of policies while recognizing that certain safeguards must be included in order to protect policyholders of those policies.

JUSTIFICATION FOR THE BILL:

General.

Life insurance policy loans are the only form of borrowing from financial institutions limited by Alaska law to an interest rate of 8%. The difference between the present rates allowed on policies and the highest rates of interest which banks and other lenders have been allowed to charge in recent years has often been substantial. This has caused serious problems for insurers and their policyholders, as well as resulting in a shortage of availability of needed capital.

Tight credit markets and high interest rates have caused a serious policy loan drain on life insurers, now more than \$45 billion, requiring companies to borrow and raise funds by selling securities in depressed markets to fund the abnormal policy loan demand. Further, since normal investment funds have been diverted to policy loans, companies have been made unable to take advantage of higher yields of 10%, 12% and 15%. Consequently, less investment income has become available to benefit all policyholders through either higher dividends or lower premiums or both. Company studies have shown that the largest policy holders are far more likely to borrow on their policies to take advantage of the favorable interest rate differential. Thus, the non-borrowing policyholder has been forced to subsidize the more sophisticated policyholder who borrows on his policy. This forced subsidization is undesirable and should not be permitted to continue in future issues of policies.

New legislation is required to permit companies in future issues of policies to attempt to prevent this serious and periodic drain on cash flow and particularly to balance equities between policyholders who borrow and those who do not.

This bill is intended to be an all inclusive law. It would apply to any form of policy containing a loan provision such as certificates issued by fraternal benefit societies and certain annuity contracts. It has been approved by the National Association of Insurance Commissioners and 19 states enacted it in 1981. ^{1/} In 1982 as of two weeks ago at least 7 more states enacted it.

The bill is also supported by the National Association of Life Underwriters (agents and brokers of life insurance), the Alaska State Association of Life Underwriters, the American Council of Life Insurance, and the Director of Insurance.

^{1/} Alabama, Arkansas, California, Connecticut, Florida, Illinois, Indiana, Maine, Massachusetts, Nebraska, Nevada, North Carolina, Ohio, Oregon, Texas, Utah, Virginia, Washington and Wisconsin.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 841 (L&C)
 Title An act relating to insurance policy provisions on policy loans &
 Requested by Labor and Commerce Committee Date 4/8/82
reinstatement of policies; & providing for an effective date.

II. FISCAL DETAIL

Agency Affected Division of Insurance
 Program Category Affected Public Protection
 BRU, Program, Or Subprogram(s) Affected Division of Insurance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | 0 | | | | | |
| 200 TRAVEL | 0 | | | | | |
| 300 CONTRACTUAL | 0 | | | | | |
| 400 COMMODITIES | 0 | | | | | |
| 500 EQUIPMENT | 0 | | | | | |
| 600 LAND & STRUCTURES | 0 | | | | | |
| 700 GRANTS, CLAIMS, ETC. | 0 | | | | | |
| TOTAL | 0 | | | | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|------------------------|---|--|--|--|--|--|
| GENERAL FUND | 0 | | | | | |
| FEDERAL FUNDS | 0 | | | | | |
| OTHER (Specify Source) | 0 | | | | | |
| | | | | | | |

POSITIONS

| | | | | | | |
|-----------|---|--|--|--|--|--|
| FULL TIME | 0 | | | | | |
| PART TIME | 0 | | | | | |
| TEMPORARY | 0 | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE May 24, 1982

PREPARED BY Kenneth C. Moore, Div. of Insurance
AGENCY Commerce & Economic Development
 PHONE 465-2515

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

SCR

37

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCR 37
 Title "Relating to the use of computers and telecommunications systems"
 Requested by House Judiciary Committee Date 4/22/82

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Legal Services
 ERU, Program, Or Subprogram(s) Affected Legal Service Operation
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | 19.0 | -0- | -0- | -0- | -0- |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 19.0 | | | | |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | 19.0 | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | -0- | -0- | -0- | -0- | -0- |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The proposed comprehensive and detailed revision of Alaska Statutes concerning the use of computers and telecommunications systems requested by SCR 37 would require an estimated six (6) weeks of attorney time. Because of existing and anticipated demands on staff attorney time, this project would be most efficiently performed under a professional services contract by an attorney with special expertise in the field. At the going contractual rate of \$75/attorney hour, the contract amount would be \$18,000. An additional \$1,000 is estimated to be necessary for printing the requested proposal along with an analysis and commentary.

IV. DATE 4/22/82

PREPARED BY Peter B. Froehlich
 AGENCY Department of Law
 PHONE 465-3600

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)



THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

March 3, 1982

Senator Charles H. Parr
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

In keeping with the Alaska Council on Science and Technology's policy to inform the legislature and governor on research needs and priorities, enclosed is the ninth in a series of twelve research needs reports for use by decision-makers in Alaska: "Alaskan Communications and Information Transfer" - (revised January 1982).

Recommendations for research needs and priorities in this particular report include:

- 1) Research on development of a statewide telecommunications network;
- 2) Research to enhance the development of telecommunications technology suitable to arctic conditions;
- 3) Concurrent with #2 above, the need to initiate studies to monitor and evaluate the technologies available today which would best meet the needs of citizens with regard to telecommunications and information transfer;
- 4) Research to determine the best means to build, maintain and access data banks; and
- 5) Planning and research into the best methods to use available telecommunications networks for educational applications.

The Council and I hope this report, as well as the others issued in the past, will serve as a useful aid in making decisions concerning research relevant to the state. If you or your staff need extra copies, please give me a call at 465-3510.

Sincerely,

Christopher Noah
Executive Director

Enclosure
CN:cp



THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

ALASKAN COMMUNICATIONS AND INFORMATION TRANSFER
Research Priorities and Recommendations

A Report

Based Upon the Results of the
ACST Communications and Information Transfer
Committee Workshop
Held February 1980 in Anchorage, Alaska

Revised January, 1982

ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY SPECIAL REPORT

ALASKAN COMMUNICATIONS AND INFORMATION TRANSFER: Research Priorities
and Recommendations

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EXECUTIVE SUMMARY

Alaska has the need and the opportunity to develop a statewide telecommunication network serving both rural and urban areas of the state, one that can evolve as technology and demand change. Such a network interfaced with data processing systems, informational storage systems and instructional capabilities located around the state can create for Alaska vastly improved services that are more cost-effective than those in use today.

BACKGROUND AND STATUS OF RESEARCH

The Alaska-Siberia Telegraph project, and by virtue of it, Alaska's early role in international communications was terminated in 1866 by successful completion of the Atlantic telegraph cable. Not until Alaska's emergence as a strategic military location during World War II did communications again become a major issue in this region. Then recognition came of the special complications auroras and related geomagnetic disturbance phenomena presented for arctic and sub-arctic communications.

In response, Congress passed a bill in 1946 to establish the Geophysical Institute at the University of Alaska to research communications and related problems. Since then, steady progress has been made toward solving the technical problems of long-distance communication in Alaska, although the use of new radio frequencies and new space-age techniques have required ongoing fundamental research in the propagation of electromagnetic waves and in transmission technology. Much of current research involves the effect of the variable geophysical environment upon the ability of radio signals at different frequencies to carry information over satellite-ground station links.

Alaska's high-latitude location has made it impossible to use the ionospheric reflection of high-frequency radio waves for reliable long-distance communications, as was common at lower latitudes prior to the satellite era. Partly for that reason, and partly because Alaska's great geographic extent created special demands on communication capabilities, Alaska was quick to move into the application of satellite technology to the state's needs. In fact, the state has taken a leadership role, both politically and technically, in the innovative application of new technology to the needs of Alaskans throughout the state. Probably more so than in any other state, Alaska's elected officials and others in government have maintained awareness of and appreciation for the benefits of modern communications technology.

Compared to that of research and development in the technologic areas, the status in the non-technologic areas is far from satisfactory. In such areas, the definition of what the problems are can be as difficult as finding the best solutions. Research in these areas often must deal with combinations of economic, social, legal and psychological questions in situations where the technological and social climates are changing rapidly.

MAJOR ISSUES IN COMMUNICATION AND INFORMATION TRANSFER RESEARCH

- ° A leading issue in Alaska is how best to provide for the orderly development of the state's telecommunications network. It is certain that the demand for telecommunications capability will continue to grow. The desires for two-way voice and one- or two-way video communication capabilities are strong, and there is increasing demand for transmission of data, fueled in part by the wide assortment of telecommunications and data-processing devices available on the market.
- ° An important issue affecting all aspects of Alaskan communications and information transfer involves the unique physical and social environment surrounding all activities in this general field. Alaska is unique among the states in its combination of great size, its location in the disturbance-prone auroral region, its low population density, its cultural and social diversity, its current economic wealth, and its strategic economic and military location on the North Pacific Rim. At issue is the appropriate degree of federal responsibility for arriving at solutions to the Alaskan communications problems and the extent to which federal regulations should flex or otherwise accommodate solutions appropriate only for Alaska.
- ° A large proportion of Alaskan scientists, technologists and governmental decision-makers, regardless of their individual fields of speciality, recognize the need for more effective technology and information transfer as a major issue deserving greater attention. The problem is perceived as having many facets ranging from strictly technological aspects to how to better provide information to those who need it for making informed decisions.

- A never-ending but important issue is how to build and manage Alaskan data bases in a cost-effective manner that yet provides for useful integrations of data sets, eliminated duplication of effort, and allows easy access to users.
- As the Alaskan telecommunications capability rises, we become more able to utilize it for teleconferencing and instructional purposes. An issue of importance is how to foster through research and development the most effective ways to use this capability. An issue also is the psychological and social impact of increased telecommunication use, especially on rural peoples.

ANALYSIS AND DISCUSSION

The issue of how Alaska can best develop its telecommunications network is complicated by national developments over which Alaska has little or no control. Telecommunications economics is a particularly troublesome area. Economic problems have manifested themselves most visibly in increased intrastate telephone rates that already are limiting innovative uses of telecommunications in Alaska. Some change in the economic structure of telecommunications is inevitable, and it is clear that new arrangements will be needed to assure the economic viability of Alaskan telephone service. In particular, we need to examine economic problems peculiar to village telecommunications.

Telecommunications technology has undergone great advances during the past decade. Many of the new developments are applicable nearly everywhere over the globe and, therefore, usable in Alaska, yet there remain some specifically Alaskan needs. These needs largely center around dealing with environmental constraints created by Alaska's far-north location and provision of low-cost technology for village use. Research and development to meet these needs likely will require funding from state sources.

The problem of identifying and setting priorities on research needs in the area of technology and information transfer is particularly thorny because of the diversity in the user audience. Technologies and informational products suited to technical workers may be unsatisfactory for non-technical persons. A further complication in the assessment of the utility, feasibility, and consequences of adopting a particular technology or informational procedure often must involve many considerations. These can include user availability, user needs, user perceptions, identification and definition of the technology, delivery and maintenance support for the technology, cost-effectiveness, and analysis of the economic, social and environmental impacts.

Since Alaska is the subject of much research, there is considerable information available about a variety of topics. However, much of this information is available only to the individual or agency collecting the data and making the analysis. Printed materials produced by state agencies are required by statute to be deposited in the State Library, but even there large gaps exist, especially in consultant studies and surveys. Some information collection and dissemination is presently accomplished through such activities as the Current Research Profile for Alaska, an annual listing issued by the Arctic Environmental Information and Data Center; participation in the Washington Library Network computer bibliographic center by several major Alaskan libraries; and data management activities by various agencies such as the Alaska Department of Natural Resources and the U. S. Bureau of Land Management.

Historically, the initial step in solving information problems has been to collect data on a piecemeal basis without thought to multiple uses, external access, or delivery to others in forms or formats different from those used by the collecting agency. As an information need occurs in a specific area, a system is established to handle it but with little regard for other applications of the same data. This results in disparate and virtually unlinked sets of information resources that are underutilized for decision-making and planning purposes. Steps that can be taken to improve the situation include:

- Development and use of compatible formats for data prior to integration;
- Development and use of machine-readable presentations;
- Use of accessing terms (e.g., those used in the Washington Library Network authority files) that foster logical growth and multidisciplinary use; and
- Adoption of geographical location entries with sufficient accuracy to computer draw maps of many different scales.

During the 1970's the hopes of Alaska's educators for instructional telecommunications capability were raised exponentially by a series of experiments that showed conclusively that technology was no longer a barrier to the delivery of a wide range of educational services. The time has come when these hopes must be realized by operational systems which are an integral component of the educational delivery system and not an exotic add-on. In effect, we must now bring into one network at the local, state, national and international levels the whole range of audio/visual materials that are in common use in the classroom. Through such networks the abilities of each individual teacher or student working independently can be expanded to whatever level is necessary to achieve the desired education goal.

PRIORITIES AND RECOMMENDATIONS

1. Research on Development of a Statewide Telecommunications Network: Alaska should give top priority to research oriented toward the orderly development of a statewide telecommunications network. Research and assessment efforts needed to permit this development include:
 - Formulation of a full range of technological and organizational options for the network;
 - Estimation of economic benefit associated with various telecommunications capabilities; and
 - Evaluation of the probable effects of regulation, competition and subsidy upon the development and economic viability of a statewide network.

2. Telecommunications Technology: Specific research and development needs in Alaskan telecommunications technology are:
 - Development of satellite technology that employs high effective radiated power and, therefore, requires only small, low-cost ground facilities;
 - Development of low-cost, application oriented ground equipment for use by telecommunications consumers;
 - Development of a small, low-cost telephone office suitable for use in a village, or development of an alternative to a central office for providing service to a number of telephones in a village;
 - Research to determine the best way to bury telephone cable in permafrost locations;
 - Research to determine the effect of rain attenuation on satellite earth stations operating in Alaska that use the 14/12 and 30/20 GHz up/down links;
 - Investigation and demonstration of packet broadcasting in Alaska;
 - Demonstration and evaluation of reliability and economic feasibility of meteor burst communications;
 - Development of a "source book" for Alaska telecommunications; and
 - Development of design handbook for television earth stations that only receive.

3. Information and Technology Transfer: There needs to be a reasonable on-going level of research directed toward monitoring and evaluation of available technologies and of the informational and technological needs and desires of Alaskans, both rural and urban.

One aim is to provide insight into the educational, social and cultural impacts of the growing availability of new technologies and informational services, the help guide decisions on future developments.

4. Data Management: Rapidly improving computer and related technologies are permitting the accumulation of large amounts of data on Alaska -- especially on its natural and human resources. Ongoing research is needed on the best means to build, maintain and access data banks. First priority should go to an evaluation of existing data collections, the evaluation to include user identification and need, physical location and format of data, accessing and processing methods, and attendant costs.

5. Educational Applications of Telecommunications and Computers: In Alaska, we now have networks for instructional video, computer-assisted instruction, and teleconferencing. Plans are under way for the expansion of those networks to a statewide capability in which each educational administrative unit in the state will be able to take part and in which each unit will have systems that are integral to its own local needs. To proceed beyond the present level of planning, research is needed into the best ways to use the available networks in such areas as cross-cultural education and Arctic and Alaska-related science disciplines. Second in priority is research into how best to incorporate into Alaskan use the wide body of general instructional material available to others elsewhere.

MONEY

The News of Business

"CHARGE!"

The purchase patterns of credit card owners have been researched by Joseph W. Powell, director of market research at MasterCard International. During the study, 1,100 MasterCard and Visa cardholders reported all their purchases over \$10 for a two-month period and the means of payment they used each time. The findings are interesting.

Payment by credit cards accounted for nearly twice as many transactions (forty-four percent) as either cash (twenty-six percent) or personal checks (twenty-five percent).

Forty-seven percent of bank card holder owners used the revolving credit (extended monthly payments) feature of their credit cards, although the cardhold-

ers who pay back the entire amounts due immediately are generally higher spenders with their credit cards. Information: Alex McCallum, 212-974-5762; or Fritz Lyon, 212-980-9120.

SHIPPING

A Korean shipping firm will help modernize and operate a grain elevator at the Port of Astoria, Washington. A fifteen-year leasing agreement has been signed and work was begun in January. The company plans to spend \$40 million to renovate the long-idle elevator and bring it into compliance with federal and state safety standards.

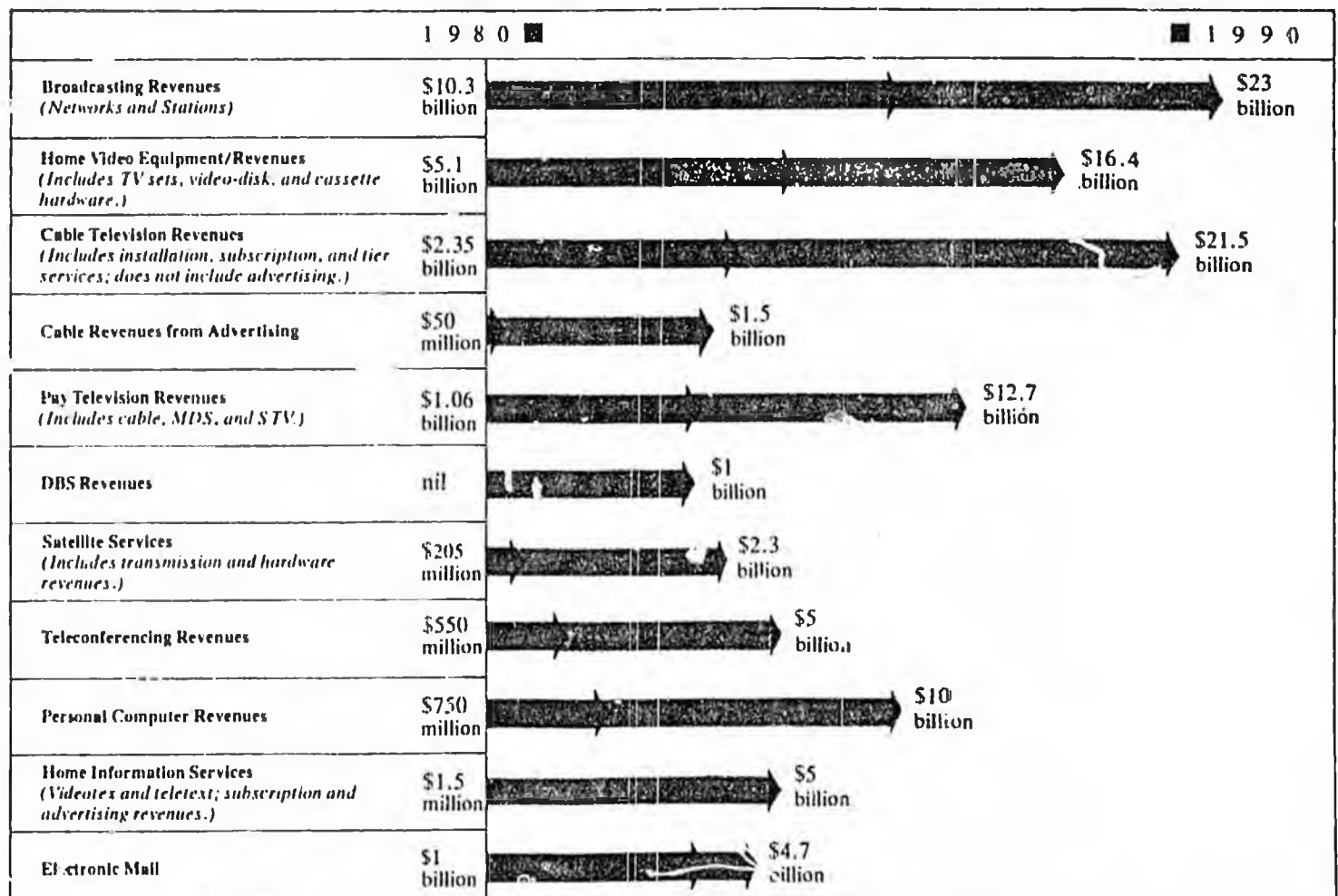
Sea-Land plans to increase its weekly cargo-carrying capacity between Seattle

and Alaska by fifty percent by April. "To meet the increased needs of both the Alaska business community and residents who depend largely on the ocean carrier to transport everyday necessities as well as construction materials, we are dedicating an additional 366-container-capacity vessel to Alaska trades," said Sea-Land Service, Inc. Executive Vice President Jack Baker.

THE ENERGY BUSINESS

Two hundred million acres of offshore tracts will be offered for oil and gas lease sales in 1982, according to Interior Secretary James Watt. This is five times the amount offered in the past thirty years. "When you restrict the supply to... small amounts, you force the prices up and only

Communications in the Eighties



New technology will make communications the most explosive business frontier of the eighties. Just how big these new industries will be depends on so many variables that predictions are risky. But on the strength of projections like these, corporations are taking the plunge. These projections were prepared with the help of Tony Hoffman of A.G. Becker, the Wall Street investment firm. Reprinted with permission from Channel's magazine. Copyright 1981 Media Commentary Council, Inc.

February urged the industry to sort out the fares muddle and to get rid of the directional differences. This is what IATA is attempting to do by researching the possibility of implementing the Special Drawing Right as the basic tool for tariff calculations in place of the US dollar and the pound sterling. We are giving priority to this and are gratified for the governmental support and understanding we have in this effort.

The fuel price rise trigger mechanism and the SDR concept are only two examples of the way in which the airlines are tackling current real-life problems through IATA.

I would not like to leave you the impression that I'm only critical and negative. Let me conclude by stating what I am for. And what I think can be achieved even in the difficult climate up ahead.

I firmly believe that a *gradual* liberalization in the regulatory environment — and a *reasonable* measure of competition — are beneficial to consumers and airlines alike. I believe, however, that policies of instant international deregulation and unbridled international competition can only result in cut-throat pricing and duplication of services with adverse impacts on airline profitability and fuel utilization. I am concerned that with escalating operating costs and a worsening general economic environment, the scope for liberalization and low fares today is more limited than might have been thought three years ago when the CAB embarked on the domestic experiment. *In fact, I believe the results of that experiment and its effect should be closely monitored to ensure that only the sound aspects of deregulation are exported on to international routes and then only at a pace which the economic conditions in those markets can absorb.*

My message today is — for heaven's sake let's take things a step at a time, particularly in today's economic climate and adapt the evolution of this international industry intelligently to the cyclical movements of our environment. To force aviation against the economic stream is deliberately conjuring holocaust. We have a climate in which bankrupt

policies can quickly lead to bankrupt airlines. Perhaps the current sombre scenario will prompt in the eighties a re-evaluation of international policies without losing sight of the objective of any efficient airlines of serving the public as adequately and cheaply as the financial environment, largely created by governments, will permit. Perhaps we shall see an appreciation of the merits of a measure of cooperation and coordination both between governments and operators. I sincerely hope so.

The ICAO assembly this year in September is the next opportunity for aviation nations collectively to demonstrate unity of purpose and policy and implement common-sense. Secretary of Transport Neil Goldschmidt's recent statement recommending the use of "discussion and negotiation to steer a common course that will benefit the industry, the traveller, the nations of the world" was a welcome word by a statesman at the right moment of time. I also entirely agree with him that "only by working together" — and I would add the corollary avoiding unilateral action by any government or agency — "can we realize the promise of the future of air transportation."

In the past the scheduled airlines and IATA have been accused of rigidity and conservatism. *We* have made notable changes in *our* traditional approaches and philosophies. *We* have clearly demonstrated *our* ability to adapt. Is it not ironic that those who fervently preach innovation are now the real stick-in-the-muds — mired in a morass of dogmatic and simplistic theory without much relation to the realities of life. Surely now is the time for them to show some flexibility and realism in the face of hard economic facts. An open mind and flexibility in action are what we need to survive in the 80s. Putting it a different way: today more than ever it must be clear to any thinking and responsible individual that the problems of the 80s require diplomatic solutions between mature partners and friends, not impositions by "independent" agencies. As Fred Kahn once said "Try it. You'll like it."

Thank you.

The New Economic and Political Order of the 1980's

RESTRUCTURING OUR SOCIETY

By JOHN NAISBITT, Senior Vice President, Yankelovich, Skelly and White

Delivered to the Foresight Group, Stockholm, Sweden, April 17, 1980

TO be back in Sweden is always special for me, and I am pleased to be with such a broad representation of Swedish businesses. This morning I will be talking with you about five powerful trends that are restructuring the United States, and to varying degrees, Sweden and the other developed countries of the world. Let me list them first, and then return to each of them for a more detailed discussion.

1. The United States is rapidly shifting from a mass industrial society to an information society, and the final impact will be more profound than the 19th Century shift from an agricultural to an industrial society.

2. There is more decentralization than centralization taking place in America — for the first time in the nation's history; the power is shifting not only from the President to the Congress, but — less noticed — from the Congress to the states and localities.

3. We are now a truly global economy because of instantaneously-shared information, and the world is deeply in the process of a redistribution of labor and production. As part of this process all of the developed countries are de-industrializing.

4. The American society is moving in dual directions of high tech/high touch. The introduction of every new

technology is accompanied by a compensatory human response — or the new technology is rejected.

5. There are the beginnings of a job revolution in America, a basic restructuring of the work environment from top-down to bottom-up.

Before dealing with each of these structural changes, I will briefly outline our methodology. In developing the Trend Report for our clients we rely almost exclusively on a system of monitoring local events and behavior. We are overwhelmingly impressed with the extent to which America is a bottom-up society, and so we monitor what's going on locally rather than what's going on in Washington, or in New York. Things start in Los Angeles, in Tampa, in Hartford, in Wichita, in Portland, San Diego, and Denver. It's very much a from-the-bottom-up society.

The tracking concept employed in determining these trends has its roots in World War II. During the war, intelligence experts sought to find a method for obtaining the kinds of information on enemy nations that public opinion polls would have normally provided. Under the leadership of Paul Lazarsfeld and Harold Lasswell, a method was developed for monitoring what was going on in these societies that involved doing a content analysis of their daily newspapers.

Although this method of monitoring public thinking continues to be the choice of the intelligence community — the United States annually spends millions of dollars doing newspaper content analysis in various parts of the world — it has rarely been applied commercially. In fact, we are the first, and presently the only group, to utilize this concept for analyzing our society. We have been doing content studies every day since 1970 of the 150 major newspapers in the United States.

The reason this system of monitoring the changes in society works so well is that the "news hole" in a newspaper is a closed system. For economic reasons, the amount of space devoted to news in a newspaper does not change over time. So, when something new is introduced into that news hole, as it is called, something or a combination of things has to go out or be omitted. The principle involved here can be classified as forced choice within a closed system.

In this forced choice situation societies add new preoccupations and forget old ones. We keep track of the ones that are added and the ones that are given up. Evidently, societies are like human beings: I do not know what the number is, but a person can only keep so many problems and concerns in his or her head at any one time. If new problems or concerns are introduced, some existing ones must be given up. We keep track of what preoccupations Americans have given up and have taken up. We are keeping track of the changing "share of the market" that competing societal concerns command.

The information collected on various issues or topics is not extrapolated, but is used to look for patterns. For example, there are five states in the United States where most social invention occurs. The other 45 states are, in general, followers. California is the key indicator state; Florida is second, although not too far behind; with the other three trend setter states being Washington, Colorado and Connecticut.

An example of this phenomenon is provided by a look at who the governors are in these five states. Connecticut and Washington are the only two states where women have been elected governor in their own right. The other states have

elected the "new" politician: Graham, Lamm and Brown. The new politics has little to do with the old liberal-conservative dichotomies. Rather, it has to do with appropriate scale, decentralization, fiscal conservatism, and a lot of experimentation.

Now let's look at the five trends.

1. *The United States is rapidly shifting from a mass industrial society to an information society, and the final impact will be more profound than the 19th Century shift from an agricultural to an industrial society.*

In 1950 — I want to talk about the percentage of the labor force in the various sectors — in 1950, 65 percent of people working in this country were in the industrial sector. That figure today is around 30 percent. It has gone from 65 to 30 percent since 1950. That is a dramatic change. (In 1900, at the turn of the century, it stood at 35 percent.) In 1950, the number of people in the information sector of the society — information occupations — was 17 percent — and now exceeds 55 percent. Information occupations are those involved in the creating, processing, and distribution of information, including banks, stock markets, insurance companies, education and government.

For years we have been hearing that we are moving into a service society. Yet the service sector (absent information occupations) has remained relatively flat — about 11 or 12 percent for decades. (The character of these service sector jobs has changed — we have few domestics today and a lot of people in fast food jobs — but their ratio to the work force has remained fairly constant.)

It is clear that the post-industrial society is an information society.

One of the important things to notice about this shift is that the strategic resource in the industrial society was capital; the strategic resource in the post-industrial information society is knowledge and data (and that's not only renewable; it's self-generating). That explains the explosion of entrepreneurial activity in the U.S. Because the strategic resource is now what is in our heads, access to the system is much easier. Not only will we see an impressive increase in the creation of new small firms, but if large institutions are to survive, they will restructure to encourage entrepreneurial activity within their institutions.

Now, the mass instrumentalities that were created, that were consonant with the industrial society, are now out of tune with the times. Just as in 1800 the fact that 90 percent of us in the labor force were farmers dictated the societal arrangements of the day, the fact that most of us were in industrial occupations until recently dictated the arrangements of a mass industrial society — which are now out of tune with the new information society. Let me give you three examples. Labor unions. In 1950, with 65 percent of the work force in this country in the industrial sector, more than 30 percent of the workers in the country were members of unions. That's now 19 percent. There's no way that's going to do anything but continue to go down, as we move more and more into the information society. A late entry in mass industrial society, network television. Network — notice I'm saying network, not television — network television started down last year, and it is on a long, slow, irreversible slide downward. I'll talk more about that later. National political parties, which had their heyday in the industrial society, exist today in theory only. Things like department stores and national chain stores which are in

tune with the mass, industrial society have been yielding over the last decade and a half to things like boutiques. This phenomenon, the breaking up of mass instrumentalities, you'll see everywhere.

Starting a year ago, the number one occupation in the United States became a clerk, replacing the laborer, and the farmer before that. Farmer, laborer, clerk: a brief history of the United States. (What comes after clerk? I can't decide whether it is soldier or poet.)

In connection with this shift to an information society it is important to notice a powerful anomaly developing: as we move into a more and more literacy-intensive society, our schools are giving us an increasingly inferior product: this is a powerful mismatch. SAT scores (the tests to qualify for college) have been going down each year for more than a decade. We all experience that our young people are not outstanding when it comes to writing and arithmetic. Consider this: for the first time in the history of the United States, the generation that is graduating from high school today is less skilled than its parents. Lastly, with the basic restructuring of the society from an industrial to an information society, the traditional groupings of goods and services won't work any more. That is why the economists are almost always wrong. And they will continue to be as long as they rely on the old indices. We need new concepts and new data if we are to understand where we are and where we are going.

2. *There is more decentralization than centralization taking place in America — for the first time in the nation's history: the power is shifting not only from the President to the Congress, but — less noticed — from the Congress to the states and localities.*

Trends move in different directions, at different speeds. They have different life cycles. About three or four years ago, the heft and feel of the movement toward decentralization became greater than the heft and feel of those forces toward continued centralization.

The two great centralizing events in America's history were the Great Depression and World War II, plus the centralizing impact of industrialization. We are now receding from these centralizing influences.

You remember, in the '50s and into the '60s (and beyond) we began to celebrate individual diversity more than we had celebrated it before. In the '60s, we started to celebrate ethnic diversity. Polish is beautiful, as well as black is beautiful. We started to celebrate our ethnic restaurants, which of course had been there all the time. An extraordinary thing happened, by the way, in the late '60s. We gave up the myth of the melting pot. For years we had taught our children in fourth grade civics (or thereabouts) that America was a great melting pot, as if we were all put in a giant blender and homogenized into Americans. Now we have given up that myth and recognize that it is our ethnic diversity that has made us such a vital, creative country. Then a phenomenon of the '70s was jurisdictional diversity, geographical diversity. We have no national urban policy today because a (top-down, master plan) national urban policy is out of tune with the times. The only national urban policy that would be in tune with the times is the national urban policy that would respond to local initiatives. It is an inappropriate question to ask, "Are we going to save our cities?" That's an either/or formulation. It doesn't work in the new multiple option society. The point is, we'll save

some of our cities; we will not save others. We'll save some of our cities a little bit; we'll save others a great deal. And it will all turn — again — on local initiative. That's also why we're not getting a national health policy, because you can't do a top-down monolithic kind of policy anymore because of the growing diversity in the United States.

Now, where we feel *centralization* continuing most painfully is in government regulations, as we well know. And that's changing. That's really bending back. It was a Republican, Nixon, who opened China. A Democrat never could have done that. And I think just so, the Democrats are the only ones who're going to be able to at least get the deregulation started, because Republicans would come under too much pressure. You know about the airlines, and you know about the trucking industry, which I thought would be the last to go, the railroads, radio. The watershed in this, I think, was in February of 1978, when the U.S. House of Representatives voted against a consumer protection agency. What was not, I think, sufficiently underlined at that time was that the first and second term Democrats voted 43 to 37 against establishing that agency. More and more, we are going to see the political left and right meeting on this issue of being against big government and against government regulations. And that's part of a larger power shift, too, that's going from the President to the Congress — and from the Congress to the states, which means more state regulations.

Proposition 13, I think, has to be understood as having a lot more to do with the initiative trend, or the referendum trend, than it has to do with taxes. We are submitting to the political process questions we never submitted to the political process before. The watershed on that was Proposition 15 in California three years ago, when the citizens in California voted on whether or not to build a plant (a nuclear plant, but nevertheless, a plant). We have never submitted that kind of question to the political process before. Business got very involved in that because they had so much at stake. And in the process they helped to legitimize this notion of submitting this kind of question to the political process. There is no end to it. Last November, more than 400 questions were voted on around the country. There have been many votes on where we can and cannot smoke. Five jurisdictions last year voted on using or not using public funds for abortion. Two cities voted on South Africa. Long Beach, California, voted on whether or not to have an oil tanker terminal, and, later on the color of street lights. We never voted on those kinds of things before, but we're going to see more and more of this. It's a part of this larger, "direct democracy." We'll be voting on a great range of new things, at times "leapfrogging" the traditional political process.

In America, the large, general purpose instrumentalities are folding everywhere. An early sign and instructive analogue of this was the demise of *Life*, *Look* and *Post*, the huge circulation, general purpose magazines nine years ago. That same year, 300 special purpose magazines were created, most of which are still being published. Four hundred or so were added the following year, and so on. There are now more than 4,000 special interest magazines being published in the United States, and no general purpose magazines. This phenomenon is an analogue for what is going on in the U.S. Two years ago the National Association of Manufacturers and the United States Chamber of

Commerce announced they were going to merge for all kinds of wonderful reasons, none of which was true. They were going to merge in order to survive. About a year ago they announced that they couldn't negotiate the merger, so now, presumably, they're going to die separately (except that the Chamber has lately become much more responsive to the grass roots, and that may save it). The American Medical Association, another umbrella organization, is getting weaker as the groups within it — the pediatricians, surgeons, etc., and the county and local medical groups are getting stronger.

A year ago two big labor unions, the meat cutters and the retail clerks, merged to form a huge union — for survival. That's the dinosaur effect: they get larger just before they go under. (We haven't noticed it, but there have been 50 mergers of labor unions in the last eight years.)

These kinds of umbrella organizations are out of tune with the times, just as network television now is becoming. ABC, CBS, and NBC will be the *Life*, *Look*, and *Post* of the '80s and '90s. Back to the magazine analogue, network television will lose ground to new options: the incredible array of cable, video disks, and new special-interest networks — a Spanish language network, the all-sports network, the ail-news network, the BBC in America network, etc. My guess is that by the end of the '80s, the three big networks may have fewer than half the viewers they have today.

The cross-over in politics came in 1976 — a Presidential year — when the number of people contributing to special interest groups, like "Save the Dolphins" exceeded the number of people who contributed to the umbrella Democratic and Republican parties combined. That trend is continuing. The two great American political parties now exist in name only. We have a Congress filled with independents. We may get some new political parties, but in tune with the decentralization of the country, they will be local, new political parties, not national. We already have the Right-to-Life party on the ballot in New York State. I am aware of your environment party and your health food party here in Sweden. We will have local special-interest parties developing in the U.S.

The magazine analogue is also instructive in connection with leadership. In the United States, we have all noticed a dearth of leadership. We have no great captains of industry any more, no great university presidents, no great leaders in the arts, or in civil rights, or in labor, or in politics. It is not because there is any absence of ambition or talent on the part of those who would be leaders. We don't have any great leaders any more because we followers are not creating them. Followers create leaders — not the reverse — and we followers are not conferring leadership as we did in the past. We are now creating leaders with much more limited mandates: closer to us and on much narrower bands. In the old Taoist model of leadership, "find a parade and get in front of it," the who would be leaders in America are finding much smaller parades — and many more of them.

3. *We are now a truly global economy because of instantaneously-shared information, and the world is deeply in the process of a redistribution of labor and production. As part of this process all of the developed countries are de-industrializing.*

The other side of relying on less centralized political authority is the growing world economic interdependency.

Sir Arthur Clarke said that the two inventions that accounted for America's swift economic growth were the telegraph (later the telephone) and the railroads. Similarly, the two great inventions that are making us a global village are the jet airplane and communication satellite. In another way Marshall McLuhan captured the sense of interdependence when he recently said, "there are no passengers on spaceship earth. We are all crew."

We are now a truly world economy because of instantaneously shared information. We have wiped out the "information float." And we are now deeply in a process of resorting out who is going to make what in this world. As part of this process all of the non-communist, developed countries are de-industrializing. Even Japan (the most flexible country in the world) is getting out of the steel business and the shipbuilding business. She knows that in these markets (which are at saturation worldwide), South Korea will outdo her in steel and ships will be more economically built by the new shipbuilders: Brazil, Poland and Spain.

The U.S. and the rest of the developed countries are on the way to losing the following industries: steel, automobile, railroad equipment, machinery, apparel, shoe, textile, and appliance. By the end of the century, the Third World will make 25 percent of the world's manufactured goods. The end of the century is only 19 years away. Remember when President Kennedy was inaugurated? That is how far it is to the year 2000.

We developed nations are probably going to kill ourselves competing over steel and cars, when we should be moving in other new areas as the Third World takes over the old tasks. That is why the Chrysler bailout was so important. That bailout is a big step down; the path of turning the U.S. automobile industry into an *employment program*, just as Britain turned its automobile (and steel) manufacturing into an employment program. We have to see Chrysler, and the other automobile companies in a world context. Consider: In the world automobile market we are reaching saturation; it will soon be a replacement market. There are now 86 countries that have automobile assembly plants. Japan takes 13 man-hours to build a car; the U.S. takes 30 manhours. Imports passed Ford and became number two to General Motors in 1979 with 20 percent of car sales in the U.S. But in the bellwether state of California imports were 50 percent of car sales last year. It has been part of the conceit of the U.S. automobile companies that they never diversified. They thought they would go on forever. Now even Henry Ford is getting out while the getting's good.

Yesterday is over. We have to look to the new technological adventures: electronics, bio-industry, alternative sources of energy, mining the seabeds. We have to work out policies (or at least let the market place do it) to make the transition from the old to the new. By the way, how reliable is the Dow-Jones as a barometer to the economic health of the society or stock market with all those companies from the dying industries on its list? Like the economists, they need a new index.

4. *The American society is moving in dual directions of high tech/high touch. The introduction of every new technology is accompanied by a compensatory human response — or the new technology is rejected.*

With the introduction of television, for example, came the group therapy movement, which, in turn, has led to the personal growth movement and the human potential move-

ment. (Watching TV in bed with someone is, of course, very high tech/high touch.)

Similarly, the high technology of the medical field (brain scanners and heart transplants) has led to a new interest in the family doctor and neighborhood clinics. A novel high tech/high touch example is citizen band (CB) radio: people using this technology to get in touch with another human being — anybody! And, moving closer to our offices, the high technology of word processing has initiated a revival of handwritten notes and letters. The high technology of chemistry and pharmacology produced the pill which led to a revolution in life styles (away from either/or to multiple-option). Jet airplanes have led only to more meetings. A poignant example of high touch/high tech is how the high technology of life-sustaining equipment in hospitals led to a new concern for the quality of death (and to the hospice movement).

Whenever institutions introduce new technology to customers or employees, they should build in a high touch component; if they don't, people will try to create their own or reject the new technology. That many account, for example, for the public's resistance to automation and electronic accounting. Electronic Funds Transfer (EFT) is failing everywhere.

The high technology of the computer has been somewhat intimidating to many of us, but now I see its high-touch potential as "computer as liberator." Let me explain. A company with 40,000 employees has always treated those 40,000 the same; it had to because that was the only way it could keep track of them. And that has been unfair, because people are different. Now with the computer to keep track, that company can have a different arrangement with each of its employees as to relation of salary to retirement benefits, work hours, job objective and so forth. And that is the trend: each of us having an individually-tailored contract with our employer. Also, the computer will outmode the hierarchical system of organization (and that is liberating!). We had to have a hierarchy in order to keep track of everybody and what they were up to. Now with the computer to keep track we can restructure to horizontal organization of many small entrepreneurial groups. The pyramid has been outdated by the new technology.

5. There are the beginnings of a job revolution in America, a basic restructuring of the work environment from top-down to bottom-up.

Whenever pressing economic trends converge with changing personal values, you get change in a society. That's why we can start to look for some revolutionary changes in the workplace. A whole new attitude toward American workers is on the way. And it could result in a revitalization of the spirit of work and America's sagging productivity.

Here's the situation: The productivity growth rate is on a dismal downswing. Last year was the worst for productivity improvement in the nation's history.

At the same time, over the last two decades, personal values have been changing radically; there's a growing demand for more satisfaction from life. Workers feel it, too. Their psychic pain is reflected in their low productivity. They are sick of being treated like machines in the service of increased productivity. Workers refuse to produce and even deliberately sabotage the products they work.

They are no longer content with the traditional remedies offered up by labor unions, such as more pay, four-day

weeks, better health benefits. What they really want, like everybody else, is deep human satisfaction from their work.

But industry had no compelling need to give it to them — until now. These dropping productivity figures will finally force industry, in economic desperation, to give more than token attention to the mental health of workers. The workplace is in for a good shaking up. And the American worker is about to be saved by one of the most unlikely forces in society — call it humanization, personal growth, "the human potential movement," participatory management, the values of the sixties. Call it whatever, it is about to converge with the economic necessity of the seventies and eighties to rescue the American worker from a deadened existence. For one thing, American industry is beginning to eye the way Japanese companies are run. Japan's productivity runs circles around ours. As I mentioned earlier, it takes Japanese workers 13 manhours to build a car, compared with 30 manhours for American workers.

It's often mistakenly thought that Japanese workers are so productive because they perform like robots, ever subservient to authority. The opposite is true. Unlike American workers, the Japanese are given enormous freedom to both plan and execute their work and solve problems alone without the help or interference of managers. The plants are run not from the "top down" like ours where managers deliver orders, but from the "bottom up" where workers make many crucial decisions. Fully 90 percent of Japan's industrial work force is organized in work groups of 8 to 11 people. The whole theory is: the workers know their job better than anyone else, and given a chance, workers will be creative and self-motivated. Interestingly, the Japanese developed some of their management techniques from the theories of our own humanistic psychologists, such as the late Abraham Maslow.

When the Japanese use their techniques on American workers, the changes are astounding. The Japanese Matsushita Company several years ago took over a Motorola plant near Chicago and began to produce Quasar TV sets. The company retained 1000 on-line workers but dismissed half of the 600 supervisors and managers. Within two years, production doubled and the reject rate of sets dropped from 60 percent to 4 percent. Moreover, through good quality control, the company reduced its annual warranty costs from \$14 million to \$2 million. Just think, too, of the countless consumers who were spared the frayed nerves of dealing with defective products. That alone is an important contribution to the nation's sanity.

Our workers are not stupid or lazy. They, like everybody else, want a chance for more personal satisfaction. And they are about to get it — even if the trigger is such an eye-glazing event as lower productivity figures. U.S. industry leaders may not understand such a trend as changing personal values, but they do understand dropping productivity.

Because of how economically interlaced the U.S. is with the rest of the world, the only weapon it has against inflation that is in its full control is productivity improvement. As Peter Drucker says in his new book, "Managing in Turbulent Times," productivity improvement will be management's most important task for the '80s. And in this regard, for the '80s, creative management will be more important than creative technology.

In closing, I want to say that I think the decade of the '80s

will be very exciting and uncertain. We must make uncertainty our friend. It is, among other things, the only certainty we have. In the decade of the '80s, we will be restructuring our society from an industrial to an information society; we are decentralizing at home while at the same time we move into a truly world economy where the redistribution of production spells opportunity for all of us; we are becoming an increasingly high touch world as we

continue to push high tech; we are becoming a multiple-option, highly market-segmented society; and we will be a more participatory society with greater opportunities for each of us to realize our potential.

In short, we will be a much more complicated society, and the period of working through the structural changes will be painful, but we will be a more interesting, creative, and nourishing society.

No Arts, No Letters — No Society

MENTAL BANKRUPTCY

By HARVEY C. JACOBS, *Editor, The Indianapolis News*

Delivered at Indiana-Purdue University, Indianapolis, Indiana, April 17, 1980

IT is flattering to me, a newspaper man, to be invited to talk about the arts and letters, and especially under the sponsorship of a group dedicated to excellence. Newspapers are not generally held in high esteem today. Norman Mailer wrote some time ago that half the stories in the newspaper are 50 percent incorrect. The rest are 75 percent incorrect. "If a person is not talented enough to be a novelist," he said, "not smart enough to be a lawyer and his hands are too shaky to perform operations, he becomes a journalist."

Therefore, I am honored to be asked to share some thoughts about a few problems journalists have in common with the academic community. Our respective futures depend upon sizable number of Americans being able to communicate — to be able to read and write and, above all, to think and form conclusions based upon reason and knowledge. I feel sure you share my pessimism — that all is not well in this process of gathering facts and drawing logical conclusions. Many of you may be victims of such failures. Others are engaged in rectifying these failures, but all of us are in the boat together — sinking into the sloppy swamps of neglect and carelessness in language and communication.

I was invited, I understand, partly because of something I wrote in *The News* about the lost art of letter-writing. From time to time I view with alarm the tilt toward poor scholarship, fuzzy language and tongue-tied students. I happen to be a letter writer; I like to receive good letters, and I also know how out of step I am: hardly anyone writes letters any more. Why write, even my own children say, when it's so easy to make a telephone call?

Writing letters, we are told by the anti-letter crowd, is a bother and also costs too much money. In some offices letters may cost up to \$12 to \$15 each — dictation, transcribing, typing, mailing. But the real reason more letters aren't written is that most Americans do not know how to write a letter. Since I have been editor of *The News* I have learned the most effective way to deal with irate callers. After the caller has spewed invective for a minute or two I say: "That's well said. Now put those thoughts in a letter and we'll be glad to publish it."

The silence is deafening. "Put it in a letter? Oh, no, I couldn't do that. I don't write very well. When I sit down to write, my brain goes into cerebral arrest" — or words to that effect.

In the letter-less society of the future how shall we acquire insights into our heroes? The hands of all biographers would be tied without letters. The best in literature, the best in biography, the best in creative and candid comments have been preserved in letters. Imagine, for example, the void left if a letterless society had existed in Bible times. Paul said in his letter to the Galatians: "Ye see how large a letter I have written unto you with mine own hand." No ghost writers, no telegrams, no telephone calls, no keying into a computerized data bank — just a plain letter in which a man's heart is laid bare.

Mostly because Americans cannot express their noblest and tenderest thoughts in a letter, a gigantic greeting card industry has come to dominate the most intimate channels of communication. This industry thrives on a laziness that would have shattered our forefathers. The attitude toward the art of letter writing is well summarized by one card which, on the cover, says: "I should write," and inside it exclaims: "But you'd probably write back!" Such a communication puts an end to all exchange of opinions and sentiment and reduces what could be a pleasurable experience to a salable absurdity.

Why is the letter such a neglected form of communication? English classes once elevated the letter to distinctive forms and required students to compose all of them. Perhaps a few teachers still do, but students report that not many dwell long on the letter. Perhaps they don't because of their own ineptitude.

I received a lengthy letter from a veteran Indianapolis high school teacher with 13 misspelled words in it. Bear with me while I run a few of them by: VIGEROUS, YOUND, FRAM, IRRATATING, IMPLACATIONS, CARE-FULL, SENCE, CAUGHING, BREATH (E), AUDI-ANCE and DISPUTE. A letter from another teacher began: "I was shigrinned to learn . . ." and so on for a page or two.

It's fashionable to blame Johnny because he can't read or write, but I suspect he does about as well as his father or mother — or perhaps even as well as his teachers. Trying to place the blame for our communications problems brings back a little rhyming explanation:

The college professor says:

Such rawness in a pupil is a shame;

High school preparation is to blame.

The high school teacher says:

SJR

75

Introduced: 2/16/82
Referred: State Affairs and
Judiciary

1 IN THE SENATE

BY STIMSON

2 SENATE JOINT RESOLUTION NO. 75

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 Relating to martial law in Poland.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS the people of Poland are currently living under martial law
8 imposed on them by their government; and

9 WHEREAS martial law by its nature represses the ability of the people of
10 Poland to determine their destiny; and

11 WHEREAS all of the people of the world who are free or who yearn to be
12 free feel ^{compassion for} [solidarity with] the people of Poland who are being repressed by
13 force;

14 BE IT RESOLVED by the Alaska State Legislature that the legislature
15 supports the people of Poland in their efforts toward self-determination; and
16 be it

17 FURTHER RESOLVED that the Alaska State Legislature condemns the actions
18 of the Polish Government in repressing the people of Poland through the
19 establishment of martial law; and be it

20 FURTHER RESOLVED that the Alaska State Legislature supports the United
21 States Government in its efforts to assist the people of Poland in their
22 quest for freedom.

23 COPIES of this resolution shall be sent to the Honorable Ronald R.
24 Reagan, President of the United States; the Honorable George Bush, Vice-
25 President of the United States and President of the U.S. Senate; the Honorable
26 Thomas P. O'Neill, Jr., Speaker of the U.S. House of Representatives; the
27 Honorable Alexander Haig, U.S. Secretary of State; and to the Honorable Ted
28 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
29 Don Young, U.S. Representative, members of the Alaska delegation in Congress.

SJR 75

SENATE JOURNAL - PAGE 309- 2 2/16/82

SENATE JOINT RESOLUTION NO. 75 by Senator Stimson,

Relating to martial law in Poland,

was read the first time and referred to the State Affairs Committee and the Judiciary Committee.

SJR 75

SENATE JOURNAL - PAGE 373- 3 2/24/82

The State Affairs Committee considered SENATE JOINT RESOLUTION NO. 75 (martial law in Poland) and a majority of the committee recommends it do pass. The report was signed by Senator Fischer, Chairman and concurred in by Senators Stimson, Colletta and Eliason.

SENATE JOINT RESOLUTION NO. 75 was referred to the Judiciary Committee.

SJR 75

SENATE JOURNAL - PAGE 395- 2 2/25/82

Senator Rodey, Chairman of the Judiciary Committee, moved and asked unanimous consent that the Judiciary Committee referral on SENATE JOINT RESOLUTION NO. 75 (relating to martial law in Poland) be waived. Without objection, it was so ordered.

SENATE JOINT RESOLUTION NO. 75 was referred to the Rules Committee.

TELEGRAM

ALASKA TEL
ANCHORAGE 99502

#

02130 NL ANCHORAGE ALASKA 68 02-19 0510P AST

PMS SEN TERRY STIMSON

JUN 1849

02 FEB 20 AM

RESOLUTION SJR-75 IS JUST ANOTHER SYMBOLISM OF THE AMERICAN TRADITION FOR THE HANDLING OF FREEDOM AND DEMOCRACY IN THE WORLD OVER THE PAST 200 YEARS. I SUPPORT THIS RESOLUTION AND GOD BLESS YOU MR. STIMSON FOR INTRODUCING THIS RESOLUTION SHOWING YOUR SOLIDARITY WITH THE POLISH PEOPLE. MY THANKS TO THE ENTIRE SENATE FOR THEIR SUPPORT IN THE PASSAGE OF THIS LEGISLATION.

STAN BORUCKI OF ANCHORAGE
7550 OLD SEWARD HIGHWAY
ANCHORAGE ALASKA 99502

opinion

Anchorage Daily News

Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Katherine Fanning
Editor and Publisher



Gerald E. Grilly
General Manager

Stan Abbott
Executive Editor

Howard Weaver
Managing Editor

Lawrence Fanning, Editor and Publisher 1967 to 1971
Alaska's Daily Morning Newspaper • Founded in 1946 by Norman C. Brown

Human rights issues call for U.S. response

At the same time the Reagan administration is condemning martial law in Poland, it is stepping up relations with a growing list of countries whose peoples suffer similar repressive rule. Its argument for this course — that the Soviet Union as instigator of communism is the world's paramount danger — would be less cynical if it were not for the fact that regimes in places like Argentina, Chile, Turkey, Guatemala and the Philippines long have been more repressive than the Polish military rulers.

In the crazy-quilt of international relations it's not always possible to limit relations to the simple pure in the field of human rights. National interest may require doing business with governments whose authoritarian systems are repressive by Western standards, as in the case of China or Egypt. In such cases, however, relations are dictated more by consideration of enormous international consequence than by a fastidious view of human rights.

But what can be said of a policy that blinks at human rights violations in places where strategic concerns are comparatively minor and where, in the longer run, American interests may depend far more on the support of independent peoples who may be freed some day from repressive rule?

There's lamentable inconsistency in an administration worldview that tacitly accepts what the generals have done in Argentina, where thousands of people have been kidnapped, untold numbers tortured and murdered, and thousands of others who "disappeared" are still unaccounted for; that warms up to the junta that rules Guatemala by terror and refuses even to moderate those tactics; that normalizes relations with a Chilean military government that carried its political murder to Washington streets and

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The administration is entirely right in condemning what's happening in Poland and in focusing world attention on the Soviet Union's role. Yet, since any such effort relies, finally, as much on moral stature and credibility as on political and economic measures, to the extent that American concern for human rights is seen to be cynically selective, the administration undermines its own case. Among other things, the Polish crisis should demonstrate the value in foreign policy of a clear and consistent championship of fundamental freedoms everywhere. The Reagan administration's discriminatory view of right-wing repression can only dissipate that strength.

Child abuse legislation

State Sen. Charlie Parr gained unanimous approval last week of legislation he introduced for child abuse protections for children who are victims of sexual exploitation. Among other things, the bill requires for state authorities to take prompt action to locate children, and expand the number of agencies that report cases of child abuse. The legislation also imposes penalties on those who inflicted upon children. This legislation is expected to reduce the incidence of child abuse and to forward the state's program.

The New York Times

Founded in 1851

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12/14/82

Neither Polish Nor a Solution

Yes, this is "it" — the long-feared suppression of the Polish people's rebellion against the Communist Party's monopoly on power.

For their acquiescence in defeat and cooperation in preventing bloodshed, Lech Walesa and Pope John Paul II might yet be able to soften the effects of the proclaimed martial law. For their willingness, even now, to keep on helping Poland, West Germany and the United States might obtain humane treatment for the fallen Solidarity leaders. There should be no doubt, however, that the Polish Government is now determined to decapitate the union opposition, to move against strikers with force and to summon the Polish army and, if it fails them, the Soviet army to put down insurrection.

The American leaders who found some initial comfort yesterday in the inactivity of Soviet tanks draw a pitiful distinction. This is no "Polish" solution. For months, the Soviet Union has demanded a crackdown, made to look exclusively Polish. But it could occur only with Soviet help. It requires the threat of Soviet intervention if Polish soldiers side with Solidarity. Only the futility of resisting Soviet forces may prevent massive civil disobedience.

Why, then, did General Jaruzelski wait until this moment?

Probably because he lacked a broad party consensus until some union leaders gave him the appearance of cause with new threats of political action. Mr. Walesa's overheard predictions of more "confronta-

tion" have been shrewdly exploited to portray the union as reckless against a patient and compromising Government. That may be enough to confuse a frightened Polish public and to give some credence to the General's overdrawn charge that "not days but hours separate us from a nationwide catastrophe."

But the evidence does not support his claim of crisis. It is true that in about half of Poland's provinces, union leaders were maneuvering to eject Communist officials from factory leadership positions. This winter's economic chaos, however, is more clearly attributable to shortages and inefficiencies than to strikes.

It is also true that a day of national protest had been called for next Thursday. But that was mainly a response to the Government's provocative threat to revoke the right to strike — the principal reform won by Solidarity at the start of its remarkable challenge 16 months ago.

The pretexts have an obvious propaganda value to the Government. Its actions, however, suggest weeks of careful planning. Nothing less could account for such details as military dress for television announcers, new censorship routines at the post office, the closing of gas stations and the proclamation of cores of regulations.

No doubt General Jaruzelski acted "with a broken heart." He is right to say that "none of Poland's problems can be solved by force." But force is what he has now invoked, challenging Poland to choose between bloody resistance and a demoralizing peace.

A Cold Stare at the Garden Ice

Nothing about New York's Madison Square Garden, with its slick, tacky sheen, suggests permanence — but no one thought its owners would close the place after a mere 13 years. That's what the Gulf and Western Corporation now threatens because of mounting losses.

If the Garden closes, New York City will have no arena for hockey or basketball, or the circus and the ice show. City Hall would like to save these symbols of urbanity; but the Mayor and his Corporation Council, Allen Schwartz, are right to be taking a very hard look at the price of ice.

The arguments for subsidizing the Garden with public funds are not frivolous. In winning seasons, the Knicks and Rangers, owned by the Garden, stimulate spending, generate sales taxes and entertain residents and visitors alike. The

tracks and other O.T.B. outlets, and leave them clamoring for a rescue. Boxing, with its small playing surface, is a television natural and its promoters no longer need to pay high Garden rentals.

Without other reliable sources of revenue, the city and state could not turn a losing private business into an affordable government enterprise. New York borrowed funds to keep two baseball and two football teams, at Yankee and Shea Stadiums. One football team nonetheless moved away and the returns now do not even cover the debt service. The symbolic importance of keeping New York a two-team baseball city may justify a deal already made. The Garden's symbolic importance is much smaller.

Its losses reflect economic tides not easily reversed. The Meadowlands in New Jersey and the Nassau Coliseum reflect a national experience: an expensive downtown location is no longer needed for

To the Editor:

Please spare me a simplistic "Japan Inc." and their application to the U.S.

The Dec. 3 letter titled "Tech Needs a Command" waves again the bloody flag of Japan's competitive challenge to the U.S. Government in the management of technology.

Those who lack public sector experience in the policy process in Tokyo generally fail to understand the critical flaws in the "Japanese rationale for U.S. Government intervention in American industry."

First, the Japanese Government is not the primary force in commercial and technological development. However comforting this may be for American managers who competed unsuccessfully with Japan, it is simply not correct. It is extremely dangerous for the U.S. to underestimate the strength of Japan's industrial structure and Japanese private sector.

Second, given the enormities faced by American industry in managing technological change, it is absurd to suggest that the process could be better managed in Washington. Even more absurd is the suggestion that this

The Case of a

To the Editor:

Tom Wicker's two-part "Threatened Harvest" (12/27) makes a compelling case for tillage farming. I've been using a no-till method for years on my patch at home and have almost no soil erosion. It also saves on manual tilling. Perhaps this, my wife remains unconvinced.

Reading Mr. Wicker's column, however, I developed a curiosity to learn where all this soil has disappeared to. Soil loosened by conventional planting can be blown away and washed away by streams to the oceans. We know that fusion and fission are not work here.

Assuming soil is a prisoner of windstorms, must large-scale erosion eroded soil, so that it blows over to farmer B's field. Some fraction — small as it is — will escape if deposited in a river or stream, but can't

Limits to the Green

To the Editor:

In the chorus of protest from local officials, as well as from the administration's program of paid Federal aid programs and upon the "new federalism," there is a strong implication that some Government has resources available to the states and

The New York Times

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Waiting for Walesa

With Poland sealed off, one can only imagine the fateful conversations between General Jaruzelski and Lech Walesa, the Solidarity leader he holds in "respected" custody.

J: I plead with you to plead with the people to go to work, to end the defiance of authority, to save us from bloodshed, to avoid testing the army's loyalty, to spare us from Soviet tanks. Help make Poland whole again.

W: I cannot plead with or speak for people with whom I am not allowed to communicate. You cannot invoke authority over workers with whom you refuse to negotiate. You can silence the people and arrest their leaders. You can force them, on pain of hunger, or death, to move their shovels and turn the machines. But that won't lift their spirits and make them productive.

J: We have exhausted what you call negotiation. No day has been free of strikes and new demands. You were not content to correct mistakes or improve the methods of petition. Election reforms were not good enough. Your hotheads demand political power, even supremacy over the Party. That is impossible. Poland is bankrupt. No reforms will have meaning until the people produce enough to sustain themselves.

W: Not Poland but the system is bankrupt. How can people produce when it yields them so little? How can the majority work well when the fruits go to a minority living in bourgeois elegance?

J: It is too late to debate the causes of this crisis. I blame both the chicken and the egg. I have detained not only your reckless associates but also the corrupt sponsors of evil in the previous regime. I implore you

now to bid the people to work, to accept authority and my promise of continued reform when conditions permit.

W: The Government does not lack for hotheads. It is too easy to blame extremists, on either side. The people will work well only if they have confidence in the leadership and in the plans for progress. And for that they need to have their chosen representatives read the ledgers and help make the rules. They will not believe in words, even mine.

J: The measures I have taken may appear extreme, but you must know that they are designed to head off worse. Solidarity is suspended, but not outlawed. Its leaders are detained, not arrested. The emergency can be temporary if patriots will pull together. Poland's destiny is Socialist and Soviet. But there is still time to avoid open conflict and foreign intervention. Go to work and, with your blessing, the West will sustain us through the winter and let us demonstrate that we can pay our way and build a new order—together.

W: Whatever I could say in these circumstances will appear to be a betrayal to save my skin. You ask for my trust, but you do not trust me and Solidarity. Ours is not a movement of agitators whose removal will clear the air. It is the working people who rebelled and recognized their power to influence their destiny. Do not misjudge their mood by their confusion of one day, or week.

J: I understand their frustration and their anger. That is why I beg you to speak out for order, before blood is spilled. Have you not heard the Pope's prayer? Do you not value mine? The people await your guidance.

Limp Progress on Foreign Aid

The Reagan Administration deserves some credit for winning House passage of a \$11.5 billion foreign aid appropriation, and particularly \$725 million for the World Bank's soft-loan window. These compromise sums are far from adequate, however, to support America's wide-ranging objectives around the world.

At least the Administration has reversed its own initial hostility to foreign aid. The success in the House, against Republican opposition, should finally assure a regular appropriation for the first time in three years; stalemates in 1980 and 1981 led to "continuing resolutions" that limited aid spending to about the 1979 levels, despite inflation.

And the \$725 million for the International Development Association is crucial to stimulating \$12 bil-

lion in aid. Thereafter they are likely to fall short of the \$5 billion to \$6 billion the World Bank seeks to offset inflation and encourage further development.

Recession and budget stringencies are used to justify U.S. cutbacks. But recession only increases the importance of foreign aid. Developing countries buy one-third of America's exports. Each dollar the U.S. gives to the I.D.A. evokes almost three from other donors and stimulates the world economy far more than domestic spending.

Yet the United States now ranks 13th among the 17 industrial democracies that give development assistance. As a percentage of gross national product, American aid has declined to one-fourth of 1 percent—half as much as was provided in the Eisenhower and Kennedy years and now exceeding only the contributions of Austria, Finland, Switzerland

To the Editor:

Why is the Foreign Service about the appointment of Walter Max Friedersdorf as general in Bermuda (new story is not a demanding post and no harm there. His staff work, and he can entertain politicians taking a well-deserved rest from the rigors of cutting budgets, school lunches and

Mr. Friedersdorf is not a political "listening" post war, a financial reporter in Zurich or a commercial pe- terdam. A comfortable co- fine way for unwanted sen- to start a "new career." I- man for Florence, and Ri- for Bordeaux!

The career Foreign Ser- portant, among other thin- vide continuity and coher- eign policy, to avoid drama- lences between one Ad- and the next. Conservativ- have forced the President this concept (about 40- his ambassadorial appoint- been from outside the car- but he has moved adroitly.

An heir to the Johnson's at the Court of St. James: magnate in Belgium or a actor in Mexico are hard- appointments and will no- alter the course of Unite-

Let Long Island Run Their Rail

To the Editor:

Your Dec. 5 editorial "Fair Deeds on Transit" un- illustrates what is writ- Metropolitan Transportat- and its attitude toward the Rail Road.

You talk about Mayor K- on-again effort to take ov- day operations of the Tra- and criticize elected offic- ing credit for good ser- blame for poor service.

two State Assembly spon- tion to split the L.I.R. M.T.A., your ignoring of Long Island legislators; I- state, mirrors the M.T.A- ward its poor stepchild; th-

Other newspapers (h- numerous times that mai- cials and candidates for- as well as commuter gro- sau-Suffolk to run the I- from the M.T.A., which I- terested in New York Cit- buses. Those efforts have- attention from the M.T.A- York media.

We are most concerne- pointment of an ombuds- Koch to monitor the M.T- ance will mean increas- the Transit Authority and- for the railroad.

Recently, we held a pu- the subject, at which e- mony was presented ab- neglect of its commut- Long Island. Mayor K- New York City official-

What to Do On Poland?

By Flora Lewis

PARIS, Dec. 17—The trickle of information from militarized Poland has been enough to make two things clear.

First, the coup was well prepared, even to timing. Reports from Gdansk show it began before Solidarity voted its last resolutions. Some people named by the Warsaw radio as arrested are actually in the U.S.; the list was an old one. Soviet "non-interference" is a myth. Gen. Wojciech Jaruzelski himself said he was acting to protect Polish sovereignty, a barely veiled admission of a Soviet ultimatum.

Second, the military dictatorship's promise of return to "renewal" of Polish society is empty. Of course the country cannot go back to pre-1980. It collapsed under 35 years of misrule. The regime's unwillingness and inability to deal with its people without force has been proved. Solidarity's early demands were modest, escalating when rulers showed they would respond to nothing but the most insistent pressure.

But neither have the generals, mostly Soviet-trained, brought room for reconciliation. Massive arrests, the banning of organizations that had nothing to do with the union, such as Catholic groups and the association of university rectors, reveal a will to destroy all popular representation.

When and if the military "terminates" its rule as pledged, to whom will it hand power? The fact that organs of repression remained fully in place, untouched by Solidarity's achievements, is now starkly highlighted. The union and its supporters built a parallel structure that was dazzling and aroused profound echoes among the people, but the oppressive power was never dismantled.

There remains the Communist Party—deeply shaken, if purged by defection of the relative, moderate fraction, purged of a few discarded and discredited incompetents. Never before has a ruling Communist apparatus been taken over by its uniformed comrades. But where can that lead?

It appears that General Jaruzelski's idea of "renewal" is simply renewal of the apparatus, replacement of one *no-menklatura* (the secret list of people eligible for responsible jobs) by another more vigorous but with the same goal of monopoly power.

Janos Kadar did manage a fairly effective renewal of his Communist Party after Hungary's 1956 revolution. But there are two key reasons why

General Jaruzelski is unlikely to do as well. One is time: an additional quarter century of Polish experience has killed illusions about the system's capacity for reform.

The other is alienation of intellectuals. Mr. Kadar's turning point came when he reversed the old Stalinist slogan of "He who is not with us is against us" to an acceptance of all who did not actively resist. Gradually, competent people agreed to seek improvements within the limits imposed, and indulgence of their efforts persuaded others to participate.

General Jaruzelski and his junta may enforce a dead "order," but there is no question of law. They cannot revive Poland's productive capacity without help from such people. Almost all have been swept into prison. However ardent his patriotism, the military ruler has turned against the well-springs of the nation's vitality.

What is the West to do? I would make a distinction between Government and public reactions, just as Poles have always had to distinguish between "reasons of state" and feeling. There should be no damper on widespread voicing of outrage. The more protests the better.

Woe to us all if fatigue and distraction are allowed to erode our instinctive revulsion. It is especially the duty of American and European unions to sustain sensitive attention to the Polish workers' call for "solidarity with Solidarity." In the fall of 1980 it was unwise for American labor, though well-intentioned, to speak more loudly than the Poles. Today Poles are muzzled. It is time to shout.

Western governments, and private bankers, should immediately suspend credits and aid to Poland, except for whatever foodstuffs and medicine can be distributed directly, not through the regime. The word is suspend, not cancel, for there is leverage only as long as a chance for easement exists.

The proper condition for restoring a flow of funds is cold self-interest, therefore in no way interference. The West cannot pour money into Poland until its leaders create conditions for its people to work productively—impossible with guns and bulging jails.

As for relations with the Russians, the fiction of Moscow's non-interference deserves a hard squint. There cannot be business and courtesies as usual, but again leverage should be preserved by judicious though initially limited measures.

Whatever happens, though, the nascent arms reduction talks with Moscow must be preserved. Reducing the danger of nuclear war, especially in time of crisis, is in everybody's interest. Excessive reliance on the nuclear deterrent is a major reason for Western impotence now. To extend it risks shattering the Western alliance. Poland should spur both Western Europe and the U.S. to concentrate more on conventional defense.

In Poland, the energy of intelligent ministers, the goodwill of the citizenry, the homage to mankind's lofty ideas, in Poland all these positive, exemplary, copybook values were, quite unexpectedly, devalued. Out of the blue, they were prostituted and dragged the venerable corpse of the republic straight to the bottom like a millstone.

"We're well aware of what happened and why. Our historiographers have taken precise soundings of the vertebral column of Polish history. They have brought to light all manner of defects, faults, and degeneration. We know that our "golden freedom" was our undoing. That fierce, mad adherence to the freedoms of the individual citizen, the autonomy and independence of the person. All our troubles stem from that unbridled freedom..."

Like a bad pupil, like a dunce in the corner, like street hooligans, we are used as an example by the wise and bearded historiographers of our exemplary neighbors, who, instead of submerging themselves in freedom, making a god and a religion of it, build strong, despotic states based on tyranny, the staunch superiority of the state over the confused individual, a cult of crushing individuals in the name of the genocidal goals of mighty Molochs. Our history envies our beheaded neighbors with their lawless states, the ultimate captivity of the thinking beings called by biologists, our fellow historians, *Homo sapiens*.

But to bell with that unfulfilled career of despots and tyrants. To bell with that unrealized role of the gendarme in Europe. To bell with that abortive summoning of defenseless individuals and entire helpless nations to the hangman.

What is it that we should be ashamed of? A fondness for freedom? Even though it was a foolish, mad, total, anarchistic, provincial freedom, the freedom which leads to ruin.

I know, I know. I know full well those ominous examples of our golden freedom which gave rise to our nation's entire chain of misfortunes and tragedies, I see the immensity of the evil born out of old-time, Sarmatian, noble, selfish, nihilistic, unthinking, lone-wolf, egotistical Polish freedom. But had we been a disciplined, ordered, unlike society of the Anglo-Saxon variety, would we have been spared by acquisitive despots, would our aggressive, totalitarian neighbors not have quartered our corpse? For nobility will always succumb to villainy, virtue fall at the feet of crime, freedom perish at the hands of the unfree. Though one may equally say that righteousness will conquer sin, good be victorious over evil, freedom triumph over slavery. But let us remember that the good is free like a cloud in the sky and that evil is swift as lightning.

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Tadeusz Konwicki, a novelist, lives in Poland. These are excerpts from the forthcoming novel "The Polish Complex," translated by Richard Lourie.

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SUM BOX

The Cry From Poland

The unofficial news now trickling out of Poland speaks volumes. The Catholic bishops describe an "entire nation terrorized by military force." The Times's John Darnton writes of a social order shattered by palpable fear. The Polish people are suffering a new kind of "atomic" attack — the isolation of every individual from every other so that in lonely desperation, millions might yield up the liberties won only over decades.

The news not heard from Poland is equally revealing. Three or four days of parading his power was all that General Jaruzelski should have needed to prove himself Polish first and Communist second — to show the will and freedom to persuade moderate church and union leaders to help him restore a productive order. Lech Walesa and Archbishop Glemp would then have appeared at his side to counsel discipline and nonviolence. The roads of Poland would have been thrown open so that all could observe the regime's control, or at least the people's acquiescence.

Instead, the ominous blackout continues. Even in arrest and isolation, not a single leader of Solidarity has been given terms or hope enough to be entrusted with a microphone, or even telephone. Their silence is an unmistakable cry to resist, at least in spirit and conscience. So is the church's remarkable manifesto calling the freedom of Mr. Walesa and other union leaders an "indispensable" condition of peace.

General Jaruzelski has lost the gamble that "Polish hands will not spill Polish blood." To demoralize his people further, he is reduced to boasting

12/18
about the loyalty of the security forces that finally opened fire. But for that, he must also advertise the fact of resistance. Now the contest is for the conscience of the soldiers. Yet even if they pass his test, what can the general expect of the workers when they sullenly carry their wrenches back to work? And if they do not sabotage his machines, how well can they perform under such duress?

President Reagan has eloquently expressed America's revulsion at these events. He is right to blame the Soviet Union first of all and to eliminate the distinction that his spokesmen had been making between Warsaw's massive repression and Moscow's direct intervention.

The President was also right to declare a moratorium on economic aid to Poland until civil and union rights are restored. The Warsaw radio had begun to crow about the applause of Western bankers, whose only concern this week seemed to be the \$30 billion that Poland owes.

The Polish economy is shattered and so is the pretense that new loans and rolling over old ones can prevent default. Aid to Poland from now on will be what it always should have been: a political instrument by which to keep encouraging evolutionary change in the Communist system.

The catastrophic failures of that system threaten not only the well-being of the Polish people. They inspire brutalities that jeopardize Poland's relations with all civilized peoples and, inevitably, the peace of Europe.

A Haitian Freeze

A Christmas plum to Attorney General William French Smith. His Justice Department has not abandoned the idea of sending illegal immigrants who have fled Haiti to detention at Icy Fort Drum, N.Y. But now it says it won't do so, at least not during the dead of winter.

To hold poor, desperate people from the tropics in a camp near the Canadian border, where the temperature yesterday morning was 12 degrees, would be callous. "Siberia," some people say. So we're all for Mr. Smith's conclusion, even though we don't exactly follow his logic.

The Attorney General observes that 1,021 illegal Haitian migrants were caught entering the country in November 1980, while in November of this year the number was only 47. That, he says, shows that the Administration's policy of intercepting and detaining Haitians is "working remarkably well." And it means existing detention camps in Florida and elsewhere can handle all the Haitian illegals; the Fort Drum plan can be deferred.

But the numbers can also be read another way — not as a sign that the fear of freezing deters migration but that illegal Haitian entrants are struggling much harder to avoid capture. If they were caught in November 1980, nothing awful happened. They were

allowed to stay, even work, pending a hearing on whether they were legitimately entitled to refugee status. Now everyone who is caught is put in a detention camp.

There is another set of relevant new numbers. They show that in fiscal 1981 503 Haitians applied for asylum, as refugees. Compare that with 36,296 Cubans, 7,138 Iranians, 4,111 Nicaraguans, 1,670 Poles, 992 Ethiopians. All told, 63,202 foreigners asked for asylum.

Why make such a fuss over only a few hundred black Haitians, especially when doing so is sure to engender accusations of racism?

There are two answers. One is technical: most of the Haitians got here illegally and, when caught, are detained for fear of encouraging more illegals. Most of the asylum applicants from other countries came in legally, as students or visitors, but overstayed. That is a lesser transgression than sneaking in; they need not be detained.

Pending remedial action by Congress, there is another, less technical answer: make less of a fuss over the Haitians. The interim decision on Fort Drum is a welcome step in that direction.

Melt the Garbage Mountains

ber who are not from Sahara at all but from states, such as Mali, Libya.

In any event, King E did not drive hundreds of Sabarans from their villages in the initial stages of (1975-76), Moroccan troops patched to the countryside and return to their homes who had fled from the war.

If the Moroccan army fronted only by Polisario the Western Sahara would be reduced into insignificance.

What Byrne Did To South Jersey

To the Editor:

As you correctly state "Byrne's Record" (editorial) popularity is at rock bottom — a long time since higher in South Jersey. Florio's defeat has been part to his failure to put between himself and Byrne failed to get the good South Jersey votes he expected.

However, if, as you say, tax has stabilized property must have done so in our town. In 1978, our tax \$1,250; they are now \$1,900 you call stabilization? We the same house all along. try to keep it maintained ability to do so has not been Mr. Byrne's accomplishment.

Yes, he took over the budget \$42 million rather than the \$30 million we were told it would be. He cut services to service in South Jersey from very little to none at all. He raised taxes to pay a higher fare now. Philadelphia is \$2. Two years ago it was \$1.35, and Transport of them owned by Public Service & Gas, paid taxes on its facilities. If Mr. Byrne brought skill and integrity to Trenton, many, if not most of us, would have been in Trenton that he was using those noble attributes for the benefit of North Jersey. He certainly kept most, if not all, of the "benefits" of his regime including Brendan Byrne Associates.

JOHN F. WILLINGBORN, N.J.

Honored by Me

To the Editor:

A Dec. 9 editorial Topical John Reed is the only American in the Kremlin wall. This is at least two other Americans there: Charles E. Ruth died in Chicago in 1977, and Haywood, who died in Moscow. Ruthenberg was a founder of the Communist Party, Big E was a founder of the Industrial Union of the World (I.W.W.). In Haywood, half his ashes are in Waldheim cemetery, Chicago.

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position taken by the Cardinal, who wrote the letter in his capacity as military vicar. The controversy also exemplifies the deepening concern over the arms buildup by Pope John Paul II and other prominent Catholics in Europe and the United States.
Among the supporters of the protest is the Intercommunity Center for Justice and Peace, a coalition of the 33 major
Continued on Page B5, Column 1

U.N. Council Votes in Annexation Illegal

to The New York Times
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Council Resolution 338, which was adopted after the 1973 Middle East War, Resolution 338 referred to an earlier one, Resolution 242, which called for Israel's withdrawal from territories occupied in the 1967 war and supported the right of "every state" in the Middle East to live within secure boundaries.
Syria objected to this implicit recognition of Israel's right to exist. But eager to gain American support, the Syrian delegation came up with a counterproposal that referred instead to "relevant Security Council resolutions." After a flurry of phone calls to Washington and Damascus, the proposal was accepted by the United States.
The resolution also called for the Council to meet again no later than Jan. 5 to consider "appropriate measures" if Israel failed to comply. Council members said these could include a cutoff in trade. But diplomats here do not believe
Continued on Page A3, Column 1

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A Letter From Warsaw

'Fear Can Come Back as Quickly as a Door Slamming'

Following is a letter received yesterday from John Darnon, Warsaw bureau chief of The New York Times, addressed to Robert B. Semple Jr., the paper's foreign editor. Normal communications from Warsaw have been shut by the authorities since Sunday.

Dec. 16, 1981

Dear Bob
At least twice in the past 24 hours the official Polish press agency has used the word "normalization" to apply to events here. For Poles and other East Europeans this is a dreaded code word.

"Normalization" is what happened to Czechoslovakia after a Warsaw Pact invasion crushed the "Prague Spring" of 1968. In the peculiar jargon of Communist officials, in which words can mean their opposite. It is the restoration of orthodox authority. To people it is the almost unbearably painful process of watching the dismantlement, piece by piece, of freedom and liberties painstakingly won.

A major part in that process is fear, and fear, it is clear, has become of the new military Poland. [As written.] It is strange; perhaps the one defining trait of the Polish "renewal" of the past 18 months was the absence of fear.

A Calculated Campaign of Intimidation

With a massive show of manpower and equipment and a calculated campaign of intimidation, the military authorities here are trying to break the spirit of resistance of the workers' movement.

Yesterday evening, a caravan of 273 police cars, trucks, water cannons and other hardware moved slowly through the city at rush hour. Thousands of onlookers were forced back on the sidewalks, dark figures waiting on dirty snow banks and trees in the cold. It seemed a parade of brute force.

This morning at an early hour three secret policemen barged into the small apartment of a Polish journalist. They insisted that he sign a document asserting that he would no longer "act in a manner to oppose socialism in Poland." He resisted and was bundled

away. His wife pleaded with the policemen as they dragged him down the stairs. One of them responded, "Don't worry, we'll be back tomorrow for you to sign it."

The fear campaign is working in some respects. Already people open their doors just a crack, to inspect who is there. They play the radio loudly while talking, or set the water running — old devices from the Stalinist 1950's to foil the eavesdropper.

For someone who has lived here for almost three years, it is as if a door that was gradually opened has been suddenly shut.

'You're Being Observed'

"I can't see you now," whispers a Polish friend, as he answers his door and steps into the hallway, closing it behind him. "Didn't you hear? I was detained. I just got out. I'm sure you're being observed."

"We can't talk here," says another Polish friend standing in a stairwell, with a glance at a man nearby, who said he was a taxi driver waiting for a customer. He may, or may not, have been listening.

It takes a long time for fear to go away, weeks, or months even, in which people slowly learn that they can speak out or, emboldened by others, write more forcefully and honestly in the newspapers. But fear can come back as quickly as a door slamming.

Overwhelming Show of Force

The full extent of the strike protest to the imposition of martial law cannot be determined with all communications down all over the country. But in areas where foreign journalists have been able to reach, factories in the Warsaw region, what broke the backbone of the protest was fear. The authorities mounted an overwhelming show of force — surrounding factories with tanks and armored cars and simply waiting for darkness and curfew to unsettle the demonstrators inside.

Workers who gave up said afterwards that they felt

Continued on Page A10, Column 1

inmates
jured when t
strators.

Tanks

Kjell E. Stokkeland, electronic specialist who Lenin shipyard. In Gdansk when he left the city this: 30 tanks were assemble refinery where workers v ing out.

He and a Greek technician in the shipyard said str who had gathered in from installation were driven t gas Wednesday. "Hell dropping it, and police or gas masks were throwing

Continued on Page A16

INSIDE

Mining Planned in

The Interior Department to open five national recreation areas to mining for minerals and oil and gas. Page A33.

St. Patrick's Parade

The St. Patrick's Day Parade, after all, will be held on Fifth Avenue March 17, the saint's day, the Sunday before. Page B1

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overwhelmed. Few... the Soviet Union would inter-... dged that resistance was not... ively contained... tunity for high-level discus-... the Soviet-bloc leaders will

the Soviet leadership forced the Polish... hand. A Tass commentary earlier in the... week rejected any "different interpreta-... tion" than one that saw the Polish ac-

Poland Re... Continued From Page A1

come over the next two days, when they... gather here for the 75th birthday of Leo-... mid I. Brezhnev on Saturday. Three of... the guests — Gustav Husak of Czecho-... slovakia, Janos Kadar of Hungary and... Yumzhaglin Tsendenbal of Mongolia —... arrived today.

Kulikov's Visit to Warsaw Recalled
The Soviet press agency has also... avoided commenting on reports out of... Warsaw that Marshal Viktor G. Kulikov... of the Soviet Union, who is the com-... mander in chief of Warsaw Pact forces... was in the Polish capital last Friday.

shooting it through guns," the Greek... said.
The two witnesses said that the troops... and riot... men had not used other... force a... ers and that the... workers fled after the tear gas barrage... This morning, Mr. Stokkeland said, the... shipyard seemed empty of workers, the

A Letter From Warsaw

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Continued From Page A1

isolated, with no idea of what was going on in other... parts of the country. They were worn down, sometimes... hungry, and began thinking of their children. Women... among them began weeping. When the troops and po-... licemen burst in, they were offered a chance to leave... unharmed; if they would separate themselves from... their leaders.

"We really had no other choice," said one worker at... the Huta Warszawa steel mill. "They had live ammuni-... tion and their guns were raised. They seemed as... scared as we were."

In other regions, resistance is still going on and... some workers are apparently determined to repel an... armed attack. But what the outcome will be cannot... even be guessed.

'Will Have to Eat Their Words'

"Poles always called the Czechs cowards for not... resisting in '68," said one foreign visitor here who... travels frequently throughout Eastern Europe. "Now... they will have to eat their words. The Czechs were... invaded by five armies, the Poles did it all by them-... selves."

A major factor in the ease with which military rule... has been established so far is the Polish love and re-... spect for the army. The army, like the flag and church... is a symbol of nationalism.

"All this time we were all looking at the army and... saying that because it is mostly made up of conscripts... it might not be loyal to the government," said one... European diplomat. "What we didn't see was the other... side of the coin. Because the army contains so many... sons and brothers, people were reluctant to move... against it."

The most telling scene in the capital over the past... three days, perhaps, occurred yesterday morning... when busloads of soldiers moved into the Polish Acad-... emy of Sciences to break up a strike by some of the... country's most eminent thinkers. The crowd was sul-

len and angry as the troops led away men in rumpled... suits and spectacles and loaded them into a bus. But no... one even threw a snowball. Minutes afterward, a... truckload of soldiers goes past and, surprisingly, some... of them waved to the crowd, for all the world like liber-... ating soldiers, not agents of repression.

The military decree that was promulgated the... morning after the army moved in was Draconian, and... it was prominently displayed on posters and the two... newspapers allowed to publish. Penalties range from... two years to death, for seemingly minor infractions. It... simply overwhelmed people.

Soldiers posted at intersections throughout the city... turned cars away and let others through, rerouting... traffic without any logical rhyme or reason. It was ef-... fective psychological harassment.

'The Time for True Courage'

One Polish journalist, sitting at a cafe and talking to... a foreign colleague with a nervous glance over his... shoulder from time to time, displayed the demoraliza-... tion and depression that most Poles seem to be feeling... It was, he said, the intellectuals who would feel the... backlash. All his journalist friends, he said, were now... out of work. One by one, he predicted, new newspapers... would open up and one by one his friends would be of-... fered jobs, if they were judged reliable. "Now comes... the time for true courage," he said, "I wonder how... many will measure up. It's either that or going to the... work center for a job as a street cleaner."

"We are back to 1951 and '52," he continued, refer-... ring to the Stalinist years. "It would take us 20 years to... rebuild what we had here."

Solidarity, he suggested, has talked a great line, but... at no time over the past 16 months did the union really... prepare a plan to counter a massive display of force. It... was not envisaged that things could turn around so... quickly, he said. Nor was it even thought that fear... could come back so quickly.

Yours sincerely,
John Darnton

Describing the clash... mine near Katowice, the wa... said "a group of irresponsi-... ble, some of whom are not emp-... loyed, organized a strike" and... despite warnings from the P... and from Government prose-... - Security forces sent to the... attacked with stone, - cro-... axes, according to the Poli-... ment broadcast. The radio... were employed" by troops... no details. "Seven people... and 39 civilians were injured... attacked the representative... who were performing their... said.

Warnings of Swift Punish
Other radio broadcasts... today indicated that the aut-... broken up strikes at a hosier... Lodz, in central Poland; at a... steel plant at Cracow, in S... land, and at a coal mine in... eastern Poland, near the Sov-... The Polish authorities... stern warnings of swift pu-... anyone who participated in... tions commemorating the 1... sary of riots in Gdansk and... Those riots led to the down-... slaw Gomu'ka as the Polish... Party leader in 1970.

The Roman Catholic Ch-... ued speaking out strongly to... sition to the curtailment... rights under martial law... radio said Polish bishops h-... the release of Lech Walesa... the Solidarity union, who h-... been held in isolation at a... guesthouse on the southern... Warsaw. The bishops wer-... having said Mr. Walesa wa-... indispensable for nation-... rium.

In a statement issued... Archbishop Jozef Glemp, w-... mate of Poland, and o-... called for "the freeing o-... held by the Government.

Radio broadcasts from V... indicated a suspension of... cial procedures, a severe c-... civil rights, new restricti-... and the rationing of electri-... and other fuel.
A television broadcast d-

Excerpts From Some Domestic Radio and Te

Special to The New York Times
WASHINGTON, Dec. 17 — Follow-... ing are excerpts from domestic Polish... radio and television broadcasts as... transcribed and translated from the... Polish by the Foreign Broadcast Infor-... mation Service, a United States Gov-... ernment agency.

Seven Killed at Mine

6 P.M. Thursday
(Noon Thursday, E.S.T.)

the unusually com x situation calls... for the highest se... of responsibility... The requirements of martial law, the... legal order that derives from it, should... be, in the name of calm and the se-... curity of the state and citizens, strictly... observed. Violation of this order leads... to events which are tragic in their con-... sequences. These casualties were un-... necessary. Human life has too great a... value for the instigators of unrest and... disturbances to threaten it through ac-... tions which are irresponsible and con-... trary to martial law. An investigation... into these affairs is being conducted by

were not looking for confrontation, for... martial law was proclaimed for the... very purpose of avoiding confronta-... tion. Even when members of the forces... of order began to fall with serious... wounds under the blows of chains,... kicks and stones, attempts were still... made to appeal to reason. It was no... longer any good. Firearms were only... used when there was a clear need for... self-defense.

The authorities will not retreat since... there is nowhere to retreat.

Provocation has no future in Poland... Socialism will not be overthrown but... will be used in order to be regener-

Economic Re

6 P.M. Thurs-... (Noon Thursday,

The military council... Salvation sets the Go... task of quickly adaptin-... management system to... of martial law. It confir-... will to carry out a prof-... prehensive economic... cordance with directo-... the S.E.J.M. of the Poli-... public. It stresses that... turn — not can there t... and ineffectly

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE JOINT RESOLUTION NO. 75
 Title Relating to martial law in Poland
 Requested by House State Affairs Date 3/26/82

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency
 Program Category Affected General Government
 BRU, Program, Or Subprogram(s) Affected Session
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | -0- | | | | | |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS -0-

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Zero fiscal note.

IV. DATE 3/26/82 PREPARED BY Wally Harrison, Director
 AGENCY Legislative Affairs Agency
 PHONE 465-3850
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)