

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1997 SRLS HOHMAN MATTER: DOCUMENTS OF RECORD

1 that you were given your opportunity today.

2 MR. GUINN:

3 We also hope that there will be other people in the state that
4 will support our position too, Senator Kelly.

5 SENATOR KELLY:

6 Are there any other questions or comments from the Rules Committee?
7 Then the Rules Committee is adjourned until tomorrow at 4:30 in
8 the Butrovich Room.

9
10 [END OF PROCEEDING]

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C E R T I F I C A T E

STATE OF ALASKA)
): SS.
FIRST JUDICIAL DISTRICT)

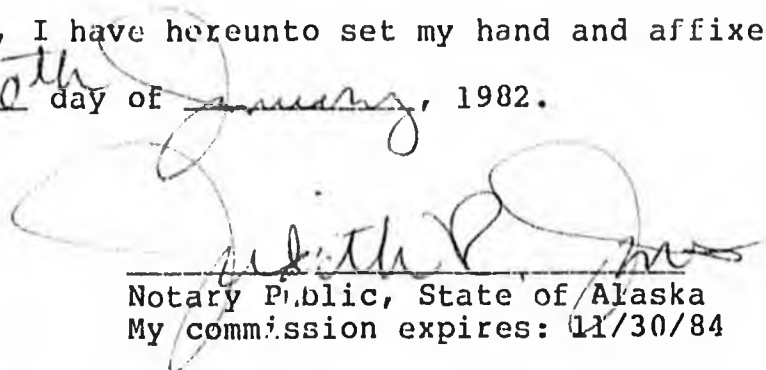
I, JUDITH R. JONES, a Notary Public, duly commissioned in and for the State of Alaska, do hereby certify that the foregoing transcript of the January 19, 1982 public hearing before the Senate Rules Committee relating to the matter of Senator George Hohman, was recorded by a person or persons unknown to me and thereafter transcribed by me or someone under my direction.

I further certify that the transcript consisting of pages 1 to 27, both inclusive, is a full, true and correct transcript of the proceedings, considering the quality of the tape and the information furnished to me.

I further certify that I am not a relative or employee of any of the parties, nor financially interested in the action.

I further certify that the original of this transcript was given to the Senate Rules Committee, pursuant to their instructions.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 20th day of January, 1982.



Notary Public, State of Alaska
My commission expires: 11/30/84

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ALASKA STATE LEGISLATURE
TWELFTH LEGISLATURE - SECOND SESSION
1982

TRANSCRIPT OF PROCEEDINGS
BEFORE THE SENATE RULES COMMITTEE

IN THE MATTER OF THE RECOMMENDED ACTION TO BE TAKEN BY THE
SENATE AS A RESULT OF THE DECEMBER 24, 1981, JURY VERDICTS
FINDING SENATOR HOHMAN GUILTY OF THE CHARGES OF BRIBERY AND
RECEIVING A BRIBE

Date: January 20, 1982

Time: 4:30 p.m.

Place: Butrovich Room
Juneau, Alaska

COMMITTEE PRESENT:

Senator Tim Kelly, Chairman
Senator Jalmar Kerttula
Senator Ed Dankworth
Senator Robert Ziegler
Senator Frank Ferguson

OTHER PRESENT:

Senator George Hohman

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P R O C E E D I N G S

1
2 SENATOR KELLY:

3 ... 4:30 p.m. The meeting is taking place in the Butrovich Room
4 in Juneau. For the Record, let it be noted that Senators
5 Ziegler, Dankworth, Kerttula and Kelly are present and that
6 Senator Hohman is also present. The Senate Rules Committee is
7 meeting pursuant to referral by the Senate President and has been
8 charged with the responsibility to hold hearings and recommend
9 the action to be taken by the Senate as a result of the December
10 24, 1981 jury verdicts finding Senator Hohman guilty of the
11 charges of bribery and receiving a bribe. The purpose of the
12 hearings will be to determine if there is cause for the Senate to
13 take action against Senator Hohman as a result of the December 24,
14 1981 jury verdicts finding him guilty of the charges of bribery
15 and receiving a bribe and to determine what recommendations for
16 action the committee should make to the Senate. Committee action
17 may include, but is not limited to, a recommendation that Senator
18 Hohman be expelled from the Senate pursuant to Article II, Section
19 12, of the Alaska Constitution, which provides that the Senate
20 may expel a member with the concurrence of two-thirds of its
21 members. Senator Hohman has been informed that in the course of
22 the proceedings, he will be given notice of the date, time,
23 location of each committee meeting. He may attend all committee
24 meetings in person and may be accompanied by legal counsel. Or,
25 in the alternative, may be represented at the hearings by legal

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1 counsel if he is unable to be present. And Senator Hohman will
 2 have an opportunity to be heard, to testify himself, to present
 3 witnesses on his behalf and to offer other evidence, to cross-
 4 examine witnesses and to examine and comment on any evidence or
 5 other materials presented to the committee. At the hearing
 6 yesterday the committee received testimony from two witnesses
 7 offered by Senator Hohman. Those witnesses were John Guinn,
 8 Mayor of Bethel and Lyman Hoffman, City Manager of Bethel. In
 9 addition to his testimony, Mayor Guinn presented the committee
 10 with a resolution of the Bethel City Council supporting Senator
 11 Hohman's retaining his seat in the Senate. Yesterday the committee
 12 also adopted a method of proceedings. That method of proceed-
 13 ings has been provided to all of you and Senator Hohman and should
 14 be entered into the Record. Senator Hohman, if you'll direct your
 15 attention, please, to paragraph 6 on page 2 of the Method of
 16 Proceedings. On Schedule of Proceedings -- if you wish to make
 17 a presentation to the committee, it is requested that you give
 18 the committee chairman a reasonable written notice of the
 19 following: (1) The name of your attorney or attorneys who are
 20 authorized to represent you in the proceedings, if you choose to
 21 have a legal representation and whether those attorneys may speak
 22 in your behalf in your absence. (2) A witness list, including
 23 the names and current addresses of all witnesses who you intend
 24 to call to testify in these proceedings. For each witness listed,
 25 you should submit a brief summary of the testimony which the

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1 witness will provide. (3) A list of all written materials which
2 you intend to submit or alternatively, the actual written
3 materials and an estimate of the amount of time that you desire in
4 order to make your presentation to the committee. I have
5 directed the committee's counsel to provide you with an outline
6 of the materials he intends to submit to the committee before the
7 close of business this week. I think the first order of business
8 we should take up today would be the proposed time schedule the
9 committee should adopt in dealing with this matter. Senator
10 Hohman, it is my understanding that you wish to have a copy of
11 the transcript of the trial prior to your giving testimony - to
12 your using your time. Is that correct, sir?

13 SENATOR HOHMAN:

14 Mr. Chairman, yes, sir, that's correct.

15 SENATOR KELLY:

16 Senator Hohman, when would you prefer to begin that testimony?

17 SENATOR HOHMAN:

18 Mr. Chairman, it would be my desire since I have not been
19 convicted and will not be, I think, possibly never but until the
20 judge has accepted the jury's verdict. And that, I think, is
21 according to Rule 32(d) of the Criminal Rules. But I do under-
22 stand that it is the -- I think that any action, and maybe this
23 very action today, is possibly precipitous in that light. I will
24 yield to the committee's desire which I think has been expressed
25 quite clear to me, that they wish to proceed. And I would think

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1 that we could comfortably be ready by Tuesday, the second of
2 February.

3 SENATOR KELLY:

4 Senato. Hohman, as you know, it's the committee's desire to
5 expedite this matter as quickly as possible. We have a
6 memorandum that every senator received from Peggy Mulligan, the
7 Secretary of the Senate, that indicated that the transcripts
8 would be ready on Tuesday evening. Senator Kerttula and myself
9 authorized the legislative printing operations to work overtime
10 to make certain that the roughly 3,000 pages would be available
11 to the Senate as quickly as possible. We've received, to this
12 point, three volumes. Senator Hohman, would it be acceptable
13 to speed this process along if one day after the receipt of the
14 transcripts, that we could hold our first hearing?

15 SENATOR HOHMAN:

16 Well, Mr. Chairman, I'm not in the best of bargaining positions
17 and I will conform to the committee's desires. I would just
18 repeat that I have not been convicted and further, that I am
19 innocent of those charges. But, given the difficulty with a
20 jury decision and so forth, I think that we could be ready
21 earlier at the date you choose for our presentation before the
22 committee.

23 SENATOR KELLY:

24 I would propose to the committee then that we adopt a timetable
25 today and let me outline the proposed timetable that we're

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1 considering and it's certainly open to debate and amendment. If
2 we are to assume that we are going to receive the transcripts
3 late Tuesday evening, then we could hold the first hearing on
4 Thursday at 4:00 p.m. and that would give Senator Hohman and the
5 rest of us a day and a half to look over some of the transcripts.
6 Senator Ziegler.

7 SENATOR ZIEGLER:

8 A week from tomorrow.

9 SENATOR KELLY:

10 A week from tomorrow, yes, sir.

11 SENATOR ZIEGLER:

12 The 28th.

13 SENATOR KELLY:

14 Essentially what we're talking about, gentlemen, is, because we're
15 waiting for the transcripts and Senator Hohman has requested that
16 the transcripts be present, is that we are talking about cancelling
17 our proposed hearings tomorrow and Friday and holding the next
18 hearing on -- a week from tomorrow. January 28, at 4:00 p.m., at
19 which time, we would hear Senator Hohman's testimony. On Friday,
20 the following day, we would receive - the committee would receive
21 our committee counsel, William T. Council's presentation, and at
22 that point we would make a decision on the recommendation we are
23 going to forward to the body as a whole. If, in fact, that
24 decision is that a resolution were to be drafted, then the
25 drafting could be done over the weekend, it could be introduced

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1 and sent to first reading and sent to the Rules Committee on
2 Monday and we could hold a final hearing on the resolution on
3 Tuesday and issue a committee report at that time. So, I think
4 what we're talking about is, like February 2nd on Tuesday, we
5 could have the recommendation out of the Rules Committee and
6 available for a floor vote and, as you all know, on this particular
7 question we're going to have to schedule it onto the floor when
8 we have all twenty senators present. I haven't yet checked with
9 Peggy to determine if all senators are present, but we're not
10 going to be able to vote on this issue unless all the senators
11 are on the floor. Are there any questions or comments on the
12 proposed timetable? Senator Ferguson.

13 SENATOR FERGUSON:

14 Is there any chance of holding these in the morning?

15 SENATOR KELLY:

16 What's the pleasure of the committee?

17 SENATOR KERTTULA:

18 I'd far prefer, Mr. Chairman, if I might speak, to hold them
19 earlier in the day, no matter what, than at this hour. It seems
20 like, at the office I'm in - at least at the office I'm in, and
21 most of our offices at this hour, have a tremendous amount of
22 people that just are waiting and you can somehow organize it
23 earlier in the day.

24 SENATOR KELLY:

25 Senator Dankworth, you're a member of the -- well, you're

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1 Chairman of the Finance Committee, of course. Could you attend
2 the Rules Committee meetings if we were to hold them earlier in
3 the morning on Thursday and Friday a week from now?

4 SENATOR DANKWORTH:

5 Mr. Chairman, it would depend on what you call early. You have
6 to remember that two members of the Rules Committee are on
7 Finance and most of us -- Senator Ferguson and I both are and
8 there is going to be some action up there. I think probably,
9 in this schedule right here, I really hesitate to answer that
10 question at the moment. I would like ...

11 SENATOR KERTTULA:

12 What about 1:00 o'clock or 1:15 ...

13 SENATOR KELLY:

14 The problem we're going to run into, Senator, is that, if we
15 schedule it during the day, we're going to have conflicting
16 committees that each of us are already members of. It's just
17 terribly difficult to find a time when we're not already
18 committed to other committee assignments. That's why we chose
19 4:00 p.m. because, essentially, most of the committee work, at
20 least during this time of the session, is completed by 4:00 p.m.

21 SENATOR KERTTULA:

22 I have to admit that I don't like 4:00 p.m. for a time to meet
23 on a situation like this. I'd prefer it earlier. Any earlier is
24 better than this hour of the day.

25

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1 SENATOR KELLY:

2 Well, why don't we do this then. Why don't we say that we'll
3 adopt tentatively the days we're talking about here and we'll
4 take a look and see when all members would be available to meet
5 at another time during the day and then we'll announce that as
6 soon as we can come to a time schedule.

7 SENATOR ZIEGLER:

8 That's satisfactory. We'll do the best we can of accommodating
9 (indisc.--simultaneous speech). I was just trying to think along
10 with what Mr. President was saying. One fifteen or 1:30 p.m.,
11 my committee assignments are such that I could always have an
12 hour and a half, from 1:30 p.m. to 3:00 p.m. And it seems to me
13 that we're not going to be pulling two people out of this
14 particular group at that hour.

15 SENATOR KELLY:

16 Okay.

17 SENATOR ZIEGLER:

18 That I'm aware of. Finance is the only one, I think, where we
19 have overlapping except for - Senator Ferguson and I are on one,
20 but it doesn't - not 'til 3:00 o'clock.

21 SENATOR KELLY:

22 All right. We'll hold the 4:00 p.m. times open and, by the end of
23 the day, we'll have staff work out a time period when all senators
24 are available. Is that acceptable?
25

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1 SENATOR KERTTULA:"

2 Yes. I think only Finance, and I might say wouldn't accommodate
3 it. A shift might not be able to sometimes, but all other
4 committees could accommodate us surely.

5 SENATOR DANKWORTH:

6 I, too. Mr. Chairman, like Senator Ziegler's proposal. I think,
7 if it can be worked out, as early after 1:00 o'clock. That would
8 leave, I know for myself, as long as the committee would like to
9 meet.

10 SENATOR KELLY:

11 Okay. With the exception of the actual time then, the Chair
12 would entertain a motion to adopt the timetable that is before
13 you now.

14 SENATOR DANKWORTH:

15 I would move that the committee adopt the schedule as proposed by
16 the Chairman.

17 SENATOR KELLY:

18 Is there any objection? [no response] Then the committee has
19 adopted the timetable with the caveat that we will change the
20 times to an agreeable time if one can be worked out between all
21 members. Senator Hohman, you've spoken briefly to the committee
22 yesterday. You've indicated your desire to speak again today and
23 you have the floor, sir.

24 SENATOR HOHMAN:

25 Thank you, Mr. Chairman. Yesterday, during my presentation to

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1 the committee, I made a point - I think it's a very critical point -
2 and I would like to again attempt to make the same point
3 utilizing different materials in the presentation. I think what
4 it illustrates is the need for this committee and the Senate as
5 a whole, to review the materials that relate to the trial. To
6 re-emphasize, I have not been convicted, according to Rule 32(b)
7 of the Criminal Rules which requires that the judgment be signed
8 by the judge or magistrate and entered by the clerk. And I think
9 that it's possible that that may not happen and that conviction
10 may not occur because the jury decision has inflicted upon me
11 personally a great injustice. The jury's attention was not
12 focusing on the facts of the case and the decision that they made
13 was unjust. If this committee, or the Senate as a body, recommends
14 an action without thoroughly reviewing all the materials that
15 were presented in the court situation, then it's accepting the
16 judgment of another branch of government and betraying the intent
17 of the constitution as it has been reinforced with numerous law
18 cases. But to illustrate that - the same point that was made
19 yesterday - I have prepared a long legal sheet of paper and I
20 have additional copies should anyone in the room desire them.
21 The sheet illustrates three very important dates: April 27, 1980,
22 April 30, 1980 and a period - May 1st through the 7th, 1980. The
23 sheet you have before you has an excerpt from defense Exhibit A.
24 April 27, 1980 Free Conference Committee - 80 on HB 60. Tape
25 number 13, side 1, 179 to 1901. The excerpt as follows: "Meekins:

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1 Before you move on to another category, I've got one more in
2 Natural Resources, this \$805,000 for the purchase of the
3 Canadair CL-215 fire suppression aircraft and \$100,000 to operate
4 them. Senator Kerttula: Is it \$705,000 plus \$100,000 or
5 \$805,000 plus \$100,000? Meekins: It's \$705,000 plus \$100,000.
6 Two sections. Senator Hohman: I move and ask unanimous consent
7 for the adoption of those sections." There's silence, a pause.
8 and I state: "Hearing no objections, so ordered. They are
9 adopted." That is the motion to adopt. I asked unanimous
10 consent. There was no objection from any of the members on the
11 free conference committee and they were all present, 3 House
12 members, 3 Senators, that provided for the purchase of aircraft,
13 the Water Bombers that have been in question during this trial
14 proceeding. The second date, April 30th, was the date that
15 HB 60 was closed and was sent to the printers to be returned to
16 the body so that we might sign the committee report and send that
17 final copy of HB 60 to our respective bodies for, hopefully,
18 concurrence or rejection. The staff at that time was given
19 authority to make technical changes. That is your legal size
20 paper, is the center portion. The alleged bribery, according
21 to the court documents and we have that listed on page 1 in the
22 Hohman court case file, Volume I, 1981. It points out that --
23 the charts -- Count I - Bribery; Count II - Receiving a Bribe.
24 Count I - Bribery, from the document, "That from on or about the
25 1st day of May, 1980, through on or about the 7th day of May,

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1 1980, at or near Juneau in the First Judicial District, State of
2 Alaska, Senator George H. Hohman, Jr. did offer to confer money
3 upon Edward Russell Meekins, Jr., a member of the Alaska State
4 House of Representatives, with the intent to influence Represent-
5 tative Meekins' vote, opinion, judgment, action, decision, and
6 exercise of discretion in his official capacity as a member of the
7 Alaska State House of Representatives." This behavior that was
8 supposed to be influenced by something that happened in this
9 time period, occurred in April 19' -- on April 27th, 1980. A
10 person possessed of a minimum amount of logical ability can see
11 how ridiculous the charge is. The jury's attention was not
12 focusing on the facts of the case. They had no basis for the
13 decision of guilty which they rendered. I think that they were
14 confused by the presentation of other materials that did not
15 relate directly to the charge. I think that my conviction
16 results from public frustration, perhaps, in dealing with
17 political figures. It results because of dissatisfaction with
18 ABSCAM and Watergate and, perhaps, hundreds of other unrelated
19 activities. I think what this illustrates is the need for this
20 body, as I said earlier, as a committee or for the Senate in its
21 entirety, to look at this evidence, to make judgment, because it
22 threatens Senator George Hohman and it threatens everyone sitting
23 at this table and every member of the body and it threatens the
24 Senate as a co-equal branch of government.

25 SENATOR KELLY:

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1 Senator Dankworth.

2 SENATOR DANKWORTH:

3 Oh, I'm sorry, were you finished?

4 SENATOR HOHMAN:

5 I wanted to just point out that the witnesses that appeared
6 yesterday before the committee, while they're constituents of
7 mine, were not -- they were here desiring to present testimony
8 before the committee of their own volition and I don't consider
9 them properly as my witnesses, although they were very, very
10 supportive.

11 SENATOR KELLY:

12 I did get a call, Senator Hohman, from one of the gentlemen last
13 Friday from Bethel. He indicated that he was going to be in
14 Juneau and he wanted, if possible, to speak on the matter.
15 Senator Dankworth, did you have a question?

16 SENATOR DANKWORTH:

17 Well, I'd like to ask George one question. The thing that you've
18 just discussed with us, is this something new or was this
19 discussed during your trial? I didn't follow the trial to that
20 degree. I mean, was this point made and you felt that they were
21 distracted in other ways?

22 SENATOR HOHMAN:

23 Yes, sir. This point was made by the defense and I think it was
24 overlooked. I think, Mr. Chairman, that the state system for
25 justice, the federal system for justice, allows for an appeal

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1 process which recognizes the fallability of the jury system. And
2 I think what we have here, and this is a case in point, is a clear-
3 cut example of a jury mistake. And I think we've allowed for
4 that in the structure of our judicial branch, we have an appeal
5 process. I think it's incumbent upon the body to look at that
6 evidence very closely before they take action - before this body
7 takes action.

8 SENATOR KELLY:

9 Are there any further questions from the members of the committee?

10 SENATOR ZIEGLER:

11 No, sir.

12 SENATOR KELLY:

13 Senator Hohman, one question I have. Are you still maintaining
14 that you need about four hours ...

15 SENATOR HOHMAN:

16 Yes, sir.

17 SENATOR KELLY:

18 And would you prefer that all of that time be at one particular
19 meeting?

20 SENATOR HOHMAN:

21 Well, I think it would be better to space it over two days. It's
22 a very, very important issue for me personally, professionally,
23 and I think it has at least equal importance to the Senate. I
24 think that we might better present our case over a two-day period
25 a two-hour block on each day. But there's nothing that has been

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1 changed so far as I know and I just talked to my attorney prior
2 to coming up here, Mr. Gail Fraties, about the outside estimate
3 of four hours needed for our presentation. And, again, we don't
4 anticipate presenting witnesses. We see no need to do that. We
5 felt that we had that opportunity during the trial and the presence
6 of the trial transcripts will make the testimony of those witnesses
7 available to the committee and to the body so it's not necessary
8 to repeat those with an in-person type of delivery by additional
9 witnesses.

10 SENATOR KELLY:

11 Okay. Thank you Senator. Let me sum up then, on Tuesday night,
12 with the Court System working very, very hard, and I understand
13 they have ten people attempting to get the tapes of the trial
14 transcribed as fast as possible, with our legislative print shop
15 working very hard and working overtime, that we expect to have the
16 3,000 pages of transcripts printed, with twenty-five copies, on
17 Tuesday evening. We'll deliver all of the volumes of the
18 transcript to each of the members of the committee and, of course,
19 Senator Hohman, just as soon as we possibly get them. Then we'll
20 meet again next Thursday, on January 28, and the time is still to
21 be set to listen to Senator Hohman's four hours of testimony. We
22 will meet on Friday, the following day, again the time to be set
23 at a later date, to conclude Senator Hohman's testimony and hear
24 the testimony of our own committee counsel, William T. Council. I
25 would hope on that day, a week from Friday, that the committee

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1 will decide and will vote on a recommendation to the full body.
2 If a resolution is decided upon, it would be drafted that weekend,
3 introduced on Monday, sent back to the Rules Committee and we
4 could hold a final hearing that following Tuesday on February 2.
5 So unless there are other question or statements that any of the
6 members of the committee would like to make - and Senator Hohman,
7 is there anything else you'd like to have on the Record today?

8 SENATOR HOHMAN:

9 No, sir, I think not and I thank you for your courtesy.

10 SENATOR KELLY:

11 Then I would adjourn the Rules Committee meeting until January 28,
12 the time to be announced later.

13

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(END OF PROCEEDINGS)

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C E R T I F I C A T E

STATE OF ALASKA)
 : SS.
FIRST JUDICIAL DISTRICT)

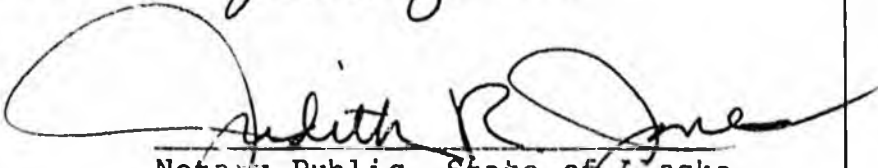
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My commission expires: 11/30/84

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ALASKA STATE LEGISLATURE
TWELFTH LEGISLATURE - SECOND SESSION
1982

TRANSCRIPT OF PROCEEDINGS
BEFORE THE SENATE RULES COMMITTEE

IN THE MATTER OF THE RECOMMENDED ACTION TO BE TAKEN BY THE
SENATE AS A RESULT OF THE DECEMBER 24, 1981, JURY VERDICTS
FINDING SENATOR HORMAN GUILTY OF THE CHARGES OF BRIBERY AND
RECEIVING A BRIBE

DATE: January 29, 1982

TIME: 1:00 p.m.

PLACE: Butrovich Room
Juneau, Alaska

COMMITTEE PRESENT:

- Senator Tim Kelly, Chairman
- Senator Jalmar Kertula
- Senator Ed Dankworth
- Senator Robert Ziegler
- Senator Frank Ferguson

OTHERS PRESENT:

- Senator George Hohman
- Gail Roy Fraties, Counsel for Senator Hohman
- William T. Council, Counsel for Senate Rules Committee

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P R O C E E D I N G S

1
2 SENATOR KELLY:

3 Will the Rules Committee Meeting please come to order. The date
4 is January 29, 1982, the time is 1:00 p.m. The hearing is taking
5 place in the Butrovich Room in Juneau. For the record, let it be
6 shown that Senators Ziegler, Dankworth, Ferguson, Kertulla and
7 Kelly are present. Senator Hohman is also present with his
8 attorney, Gail Fraties. Senate Rules Committee is meeting pursuant
9 to referral by the Senate President and has been charged with the
10 responsibility to hold hearings and recommend the action to be
11 taken by the Senate as a result of the December 24, 1981, jury
12 verdicts finding Senator Hohman guilty of the charges of bribery
13 and receiving a bribe. The purpose of the hearings will be deter-
14 mining if there is a cause for the Senate to take action against
15 Senator Hohman as a result of the December 24, 1981, jury verdicts
16 finding him guilty of the charges of bribery and receiving a bribe
17 and to determine what recommendation for action the Committee
18 should make to the Senate. Committee action may include, but is
19 not limited to, a recommendation that Senator Hohman be expelled
20 from the Senate pursuant to Article 2, Section 12 of the Alaska
21 Constitution, which provides that the Senate may expel a member
22 with the concurrence of two-thirds of its members. Senator Hohman
23 has been informed that in the course of the proceedings he will be
24 given notice of the date, time and location of each Committee
25 meeting, he may attend all Committee meetings in person and may be

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1 accompanied by legal counsel, or in the alternative, may be
2 represented at the hearings by legal counsel if he is unable to be
3 present and he will have an opportunity to be heard, to testify
4 himself, to present witnesses on his behalf, and to offer other
5 evidence, to cross-examine witnesses, and to examine and comment on
6 any evidence or other materials presented to the Committee. The
7 Committee has previously held hearings on this matter on January
8 19 and January 20. At the January 19 hearing, the Committee
9 received testimony from two witnesses who testified on Senator
10 Hohman's behalf. Those witnesses were John Guinn, Mayor of Bethel,
11 and Lyman Hoffman, City Manager of Bethel. In addition to his
12 testimony, Mayor Guinn presented the Committee with a resolution
13 of the Bethel City Council supporting Senator Hohman's retaining
14 his seat in the Senate. Senator Hohman also testified on January
15 19. On January 19 the Committee adopted a Method of Proceedings.
16 At the request of Senator Hohman, that Method of Proceedings
17 brings before this Committee the record of Senator Hohman's jury
18 trial on the bribery charges. Senator Hohman has requested that
19 this Committee review the evidence presented to the jury at his
20 trial. The Committee may consider that evidence in its delibera-
21 tion. January 20th: At the January 20 hearing, Senator Hohman
22 again testified on his own behalf. At the January 20 hearing
23 Senator Hohman requested that the Committee delay these hearings
24 until the record of his jury trial was made available to him.
25 That request was granted and further hearings were postponed until

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1 yesterday and today. A complete copy of the record of Senator
2 Hohman's jury trial containing the testimony of all of the
3 witnesses at the trial, was delivered to Senator Hohman's office
4 on the morning of January 24. Copies were delivered to all of the
5 members of the Senate on the morning of January 25. On January 23
6 the Committee's counsel informed Senator Hohman's attorney of the
7 presentation that Committee counsel expected to make to the
8 Committee. On January 27 a summary of the evidence presented at
9 Senator Hohman's jury trial, prepared by the office of the
10 prosecuting attorney, was delivered to Senator Hohman's office.
11 Copies of that summary were delivered to all other Senate members
12 yesterday. A copy will be entered into the record of these
13 proceedings. Senator Hohman has requested that exhibits used at
14 his jury trial be made available to him for his presentation to
15 this Committee. That request is being granted by the court system
16 without objection by the Committee. Also of significance to these
17 proceedings is an Order entered by the judge who presided at
18 Senator Hohman's jury trial. Senator Hohman had asked the trial
19 judge to throw out the jury verdicts finding him guilty of
20 bribery and receiving a bribe. Senator Hohman's attorney argued
21 that the jury could not have carefully considered the evidence
22 presented at trial, since the jury reached its guilty verdicts
23 after deliberating only a few hours. The trial judge upheld the
24 jury verdicts and ruled that there was sufficient evidence to
25 allow the jury to decide upon Senator Hohman's innocence or guilt

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1 on the bribery charges. A copy of the judge's Order is to be
2 entered into the record. I would also at this time like to have
3 introduced into the record a resolution from the City Council of
4 Newtok essentially in support of Senator Hohman. Are there any
5 questions or comments from the members of the Committee before we
6 get into today's testimony? Senator Ferguson.

7 SENATOR FERGUSON:

8 Mr. Chairman, I have here Martin Moore, former representative from
9 Emmonak that's down here on his own expense that would like to
10 give a short presentation to the Committee.

11 SENATOR KELLY:

12 The Committee, with no objection, will hear Martin Moore's testi-
13 mony. How long would it be, Senator Ferguson?

14 SENATOR FERGUSON:

15 How long would it be.

16 MR. MOORE:

17 Oh, less than five minutes.

18 SENATOR FERGUSON:

19 Less than five minutes.

20 SENATOR KELLY:

21 Okay. We will gladly hear former representative Moore, then.

22 SENATOR HOHMAN:

23 Should he be positioned at my seat, Mr. Chairman?

24 SENATOR KELLY:

25 Yes, if you'd be so kind.

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1 SENATOR DANKWORTH:

2 Put your mike there , George.

3 SENATOR KELLY:

4 Representative Moore, will you state your name and your place of
5 residence for the record, please.

6 MR. MOORE:

7 Thank you, Senator and members of the Committee. My name's Martin
8 Moore. I'm from Emmonak, Alaska. Gentlemen: Let me tell you a
9 story two thousand years old. Crucify him. In loud voices and
10 demanding people continue. The Commander in charge Look at the
11 people and said. I wash my hands in the innocence of this man.
12 Then and only then was he able to condemn an innocent man. To
13 bring judgment against Senator George Hohman, based on peer public
14 pressure could be a self infliction upon your own credibility. On
15 April 27, 1980, Free Conference Committee members, consisting of
16 Senators Hackney, Kerttula, Hohman, and Representatives Meekins,
17 Montgomery and Durcan, elected to appropriate \$805,000 to purchase
18 two Canadian Air fire suppressant aircraft in two (indisc.)
19 seven hundred and five thousand plus a hundred thousand. Unanimous
20 consent was asked and so ordered. On April 30, 1980, the Free
21 Conference Committee action was officially printed and documented.
22 Staff then was given the authority to make technical changes. The
23 final document then was reported to the members of the two houses.
24 After I read these documents, I failed to understand when we are
25 about to condemn a man where judicial system guesses on or about

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1 the first day of May in between or about the 7th day of May 1980,
2 or where it says, with the intent to influence, to influence what?
3 The vote, the opinion, judgment, action, decision, or does
4 it exercise a discretion? And again, on or about the first day of
5 May 1980, or somewhere in between, the 8th day of May 1980, an
6 agreement was reached. Or was it understanding, to vote, to have
7 an opinion, a judgment, action, decision, or was it exercise of
8 discretion, without a reasonable doubt? The State documented,
9 recorded and gathered information for the last twenty months, it's
10 estimated to have spent over one point five million dollars. A
11 portion of my tax dollar to prosecute and to persecute Senator
12 George Hohman. Amid all that information the jury began its
13 deliberation, what took the State almost two years, the jury
14 deliberated several hours. Probably not exceeding an hour and a
15 half. In closing my statement, I would like to echo a voice of
16 (indisc.) listened to many witnesses on the Hohman
17 trial as one of the two jurors dismissed. She said, I think he is
18 innocent. I urge this Committee to maintain Senator George Hohman's
19 innocence until the appeal process has been completed. Gentlemen,
20 Senators, I thank you very much for this privilege.

21 SENATOR KELLY:

22 Thank you, Representative Moore, are there any questions? From
23 members of the Committee? Thank you very much. Prior to getting
24 into Senator Hohman's testimony, I would inform the Committee that
25 we expect today to go until three o'clock on the button, at which

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1 time we'll adjourn and reconvene tomorrow at one o'clock. It is
2 estimated by Senator Hohman and his attorney, they need about
3 four hours. We should get two hours today, two hours tomorrow.
4 ur counsel will need about one hour then to summarize his
5 findings and, hopefully, we can then make a recommendation
6 tomorrow. I would estimate tomorrow's meeting to run about from
7 one o'clock until four o'clock in the afternoon. Senator Hohman,
8 you may proceed, please.

9 SENATOR HOHMAN:

10 Thank you, Mr. Chairman. I am in receipt of the transcripts, the
11 exhibits of the trial in the State versus Hohman and I'd like to
12 acknowledge that I appreciate the Senate's support of the motion
13 that I made to include them in the official record. I do note that
14 in the short time between the time I received them and now that
15 we have noted that there are probably about five errors, which is
16 not...which is to be expected, I think, in a task of this size...
17 a transcription task, especially since it was done in such an
18 expeditious manner, but there are some errors, I think, in the
19 transcripts. Today I will not be presenting testimony to the
20 Committee, but I will defer to my attorney, Mr. Gail Fraties, and
21 I think that I'm ready to turn the mike over to him now. Thank you.

22 SENATOR KELLY:

23 Mr. Fraties.

24 MR. FRATIES:

25 Thank you, sir. I should begin these remarks by thanking the

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1 Committee for its patience in waiting for me to arrive here while
2 I was taking an instructive tour of Southeast Alaska with Alaska
3 Airlines yesterday and that's extraordinarily kind of you to wait
4 until today in order that the Senator may be heard. I think that
5 I should begin by saying that when I came down here, I was treated
6 to the early morning news as I was going out to the airplane and
7 I, the Anchorage columns and press and radio announcers and all
8 were saying that there has been a decision already arrived at by
9 the Committee and I don't say that to embarrass Senator Kelly in
10 any way because I'm a columnist myself and I write these things
11 and subject to last minute changes, but somebody or other got
12 ahold of what they purported to say was one of Senator Kelly's
13 forthcoming columns in which it was said this Committee had
14 decided to recommend the expulsion of my client from the Senate
15 and I say this again not to embarrass my fellow columnists, but
16 because I know how those things can happen and it must be equally
17 embarrassing to him. And I say that also to indicate that neither
18 my client nor myself feels that the conclusion is foregone or that
19 we will not receive a fair hearing here to dispel any such
20 impression that may have been made in the incident. And I would
21 say also, that were it true that the Committee had already reached
22 a decision, I would still argue for my client. I always liked the
23 story of the Devil and Daniel Webster when I was a kid and
24 although I don't equate this Committee with Daniel Webster's
25 formidable adversary on the occasion when he argued to the Devil

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1 himself for the soul of one of his constituents, I can say that,
2 I mean, what is a professional silver-tongued devil to do when he
3 is told that a decision has already been reached by the jury and
4 then he can make his argument, but to accept that as a challenge.
5 But I repeat, that we do not think the decision has been made.
6 We think that we will be treated with fairness that is consis-
7 tent with the fact that one of your colleagues has been accused.
8 Now, I have never served the State in the capacity that you do
9 as legislators and so I do not have an intimate knowledge of the
10 legislative process. And perhaps then you would think that the
11 suggestions of an outsider were offered to you with some temerity
12 since I do not live your lives, nor am I subject to your problems,
13 but then let it be as an outsider since by definition there are
14 only a few dozen people that can ever be legislators at any time
15 and the rest of us are outsiders to the process. And I would
16 make these suggestions concerning the public policy impact of
17 what the Committee may be requested to do and that is to
18 recommend expulsion at th's point. This I think it's fair to
19 say, was a sensational case. It is the defense contention and
20 it was the contention that the Senator was convicted on specula-
21 tive evidence...speculation, and I'll get to that in a moment.
22 But supposing that that were a possibility. In the state of
23 Alaska, and I do not suggest this as a reflection on the present
24 incumbent of the Governor's office, whom I respect, of course,
25 but the Governor's office in this state is an extraordinarily

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1 powerful one. More powerful than any other state that I know
2 in the context that the Governor appoints the attorney general
3 who in turn appoints all of the public prosecutors. He also
4 controls law enforcement to a large degree through the Depart-
5 ment of Public Safety. This gives the executive branch of this
6 government an extraordinary power in what is to be, hopefully,
7 a balance of power situation between you as legislators, the
8 Governor's office, and of course, the judiciary. In this case,
9 as was suggested in the moving remarks of Representative Moore,
10 there was an enormous expenditure of public money. I do not
11 have access, of course, to the records as you do, or to the
12 legislative audit as you do, but I've tried many cases and I
13 have been in a disputed, contested case against the government,
14 which, of course, is my function in life, and I certainly
15 logistically I can assume expenses since I engender expenses on
16 behalf of my clients. I know what it must cost to keep two full
17 investigators working...full time investigators working for in
18 excess of a year to keep attorneys full time to bring witnesses
19 from Europe and to visit people all over the continent and in
20 Canada and so forth, I know what that sort of thing costs, so I
21 can say that there was an enormous expenditure in a showcase
22 trial which obviously the government in any case can outspend
23 the average citizen, ten to one, twenty to one, in this case it
24 must have been fifty to one, a hundred to one, and maybe it
25 isn't unfair. But then, that is the context in which we must

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1 approach this case. Now, the United States Congress and other
2 legislative bodies have given us precedent for other avenues that
3 can be proceeded. One of them is suggested by Representative
4 Moore that has been used successfully in other cases is to allow
5 the appeal process to run its due course. In this particular case
6 where the transcript has already been prepared and very quickly,
7 I would say, and I defer, of course, to my fellow attorney on this
8 Committee, but I would say that probably ninety percent of the
9 delay in any Supreme Court appeal is the preparation of the
10 transcript, and in this case the transcript has already been
11 prepared, I personally have been involved in a case involving a
12 public functionary, at that time I was serving the Senate...your
13 fellow Senators in a case involving a public official in which the
14 Supreme Court was asked because of the importance of the matters
15 to be considered, to accelerate their process and to give the case
16 precedent over other cases upon which they were deliberating,
17 and I would suggest to you that the appeal process in this case
18 could be very short indeed. If that has any impact on your
19 thinking as to the necessity of expelling the Senator before he
20 has the recourse to an appeal, which in this case, would hardly
21 be a frivolous appeal and which very well might result in the
22 reversal of his conviction, that's a distinct possibility, it
23 happens in many cases. In which case, I think that as a
24 public policy concern, it would not be appropriate to have an
25 undue haste in dealing with the case, since it can be dealt with

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1 rapidly anyway, to preserve all of the Senator's rights. Now, you
2 might well ask in being presented with thirty-seven hundred pages
3 of transcript, why should we review this, we're busy now, and I
4 have reviewed many thousands of pages of transcript myself and I
5 must say I identify with that concern. But I would suggest that
6 this Committee and the Senate as a deliberating body, considering
7 the expulsion if it ever gets to that of one of its own members,
8 should be very concerned as to whether the case was a strong one,
9 and we have a transcript for reference. If it in fact has
10 immediate impact on the other members of this delegation, I would
11 simply say that in a context in which the public prosecutor in
12 response, obviously, to comments of my own about the enormous
13 amount of money that had been spent, stated this to the jury:
14 And yes, we are spending money, and do you know why we're spend-
15 ing money? Because the integrity of this government is at stake.
16 There's a lot of money going, available across the street there,
17 a lot more than what was spent in this case, a lot more than
18 that's involved in this appropriation and it's got to stop. This
19 kind of thing has got to stop. Now, I'm not trying to stampede
20 anybody, but that remark in the context that it was made of a
21 final argument in an attempt to convict your colleague, was very
22 definitely a declaration that the Department of Law and the public
23 prosecutors are going to put a stop to all of the villainy and
24 the bribery and everything that's going on in the legislature if
25 it costs them every last dollar that the State has and if it's

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1 the last thing they ever do. Now, if that's the attitude, then
2 I would suggest that it is incumbent upon the legislature as
3 having its own integrity and its own principles and problems, to
4 consider whether or not it's appropriate to proceed with due
5 deliberation and caution in a case where one of the fellow
6 members has been accused of and, at the moment at least,
7 convicted of a crime, on what his attorney says is just specula-
8 tion. Now, there is a comment in the material that was made
9 available to you that the Grand Jury received thousands,
10 reviewed thousands of pages of documents and this is offered,
11 I suppose, as a makeway for the conviction. If the Grand Jury
12 used the same careful deliberative process that the jury in this
13 case used, I would suggest to you that they didn't look at any
14 documents. Now, I don't know whether we're going to have time
15 to do this, but I have suggested that the flow charts and the
16 game show atmosphere, charts that were used in the Grand Jury
17 be brought...for the Grand Jury and in this trial, be brought to
18 your attention so that you can see the extraordinary amount of
19 speculation that was required. I can say this to you, as a
20 participant and not upon oath because obviously I'm not in a
21 position to testify to anything, but as a participant in this
22 trial, I am aware of the fact that the jury began its delibera-
23 tions at about 9:30 in the morning, it wasn't so much as a...it
24 must have been within a very few minutes after that that we
25 received a request to hear Representative Meekins' testimony

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1 again, which is, you know, by means of the tapes that were made in
2 the course of the trial. The jury thereupon, because of various
3 delays in getting ahold of the attorneys and me communicating with
4 my client, and everything, to my best recollection, must have
5 waited well over two, and possibly three hours, and then, during
6 that period of time, I was informed reliably that they were not
7 deliberating, they were waiting for the tapes. In the time between
8 9:30 and 2:30 in the afternoon, they must have had to select a jury
9 foreman and assuming that they spent a few minutes at least eating
10 a sandwich or doing something, they waited three hours for the
11 tapes, they had to hear the tapes, and for our best estimate they
12 couldn't possibly have considered the evidence in this case for
13 longer than an hour, if that long. That's subject to being checked
14 out, but that's my best estimate at the moment and I'll stand by
15 it until somebody refutes it. If you have a look at the charts and
16 all of the incredible(?) wealth of information from which the jury
17 was to infer guilt, then you would determine for yourself that not
18 one juror had time even to look at all the thousands of pages of
19 records that were brought in, even one record, to see whether any
20 entry on the chart conformed with any entry in the records. I
21 would say that if a person of critical mind were to have been on
22 the jury and had reason to believe that there might be anything
23 wrong with the government's case, it might have been interesting
24 to look at at least a few pages to see if they were even there, or
25 whether what they had been presented by the prosecution's office

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1 was bundled up newspapers...which I'm not suggesting was the case,
 2 but I am suggesting that...I mean, all of us in the field of
 3 defense have had cases where juries will at least deliberate a few
 4 hours, even on cases that are very hard to defend and this case
 5 the jury, to my way of thinking, did not possibly have time to
 6 consider the evidence that by the nature of a trial they had never
 7 held in their hands before nor had they looked at, it had simply
 8 been described to them. Now, what, if anything, did they have to
 9 talk about? I mean, let's assume that probably some of you, of
 10 course none of you having had the opportunity to view the trial
 11 yourself, would wonder, well, what, if anything, was the jury
 12 supposed to be curious about. Well, Senator Hohman, who is a
 13 legislator and who speaks to you as legislators, I understand, has
 14 already explained to you, the fact, as Representative Moore has
 15 alluded, that this is a case in which the language of the bill was
 16 already locked up and the bill was on its way to the printers, it
 17 was Representative Meekins' own language that was in there, and
 18 subject...aside from some extraordinary reason to recall the bill
 19 and open the whole thing up again, there wasn't a scintilla of
 20 evidence that there was any reason whatsoever for anybody to engage
 21 in bribery. I'm not going to beat that to death...I'm simply
 22 going to argue that we lawyers depend on circumstantial evidence
 23 to prove a lot of things, and the State almost entirely depended
 24 on circumstances here, and yet I'm suggesting to you that the
 25 circumstances require you to believe that a man who is certainly

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1 regarded by his fellow colleagues as no fool, used a...I don't
2 mean to demean the man, but used a young capitol gopher-type, a
3 man known to be talkative and impulsive, to negotiate with a man
4 that he had never seen, about money that he had no idea about the
5 existence of funds, and then he talked to a fellow who was a
6 political opponent of his, about a bribe when there was no
7 necessity to bribe. That seems to me to be the sort of circum-
8 stance that would require a person of critical mind to say, Well,
9 if there was no reason to do it, and it doesn't make any logical
10 sense, let's consider the evidence, well, obviously, you know, he's
11 a Senator, he's a politician, I mean, hell, he's guilty, it's
12 obvious, I mean, these guys are bad people, and I don't suggest
13 that as a denigration of this Committee. I'd hate to be a lawyer
14 on trial in the Watergate era, any more than I'd hate to be a
15 politician on trial in the era of Abscam. I mean, we're all
16 subject to this sort of thing. Now, there wasn't any reason to do
17 it, he went to all of the wrong...I mean, it doesn't make a bit
18 sense in that sense...all right, so does that raise any...would
19 that require a critically minded person on the jury to keep the
20 jury up for more than an hour to talk about some of the other
21 problems that were referred to in this case. Were there any other
22 problems? Another aspect of that particular one is that there has
23 never been successfully explained to me or anybody why somebody
24 with the clout of this Senator, dealing with a representative who
25 had projects, or capital project eighty-two, or something or other

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1 on his mind, where there were literally millions that he was trying
2 to protect for his constituents, why he would find it necessary to
3 bribe anybody when he could simply trade...horsetrade, as is
4 perfectly legitimate in legislative circles, support on one item
5 for support on another item. But that raises another logical
6 problem for me, at least, as an outsider. I don't wish to attack
7 Representative Meekins as a witness, but I will say this, and I
8 have never attacked him personally as a witness, at least in my
9 opinion...he may feel otherwise, but the fact remains that out of
10 all of the witnesses that were presented he is the only one that
11 has ever said a word against Senator Hohman, and what, if anything,
12 is wrong with him? He is a man that refused to wear a wire, or a
13 bugging device. I don't ask for Senator Dankworth's support
14 particularly in this case, except for the fact that we were
15 colleagues at one time in law enforcement, and there is a problem
16 with an informant that will not wear a wire, particularly an
17 informant that has reasons of his own political or otherwise to
18 dislike somebody. Representative Meekins admitted under cross-
19 examination that many of his allegations made no sense, for the
20 reasons that I've already expressed to you. He denied that he had
21 said that he didn't need any further publicity from Representative
22 Duncan because he was going to be a star witness in the Hohman
23 trial, but Representative Duncan refutes that. Which is bias.
24 He admits that the words that he heard could have had various
25 meanings. Again, it's not an attack on him, but he was regarded

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1 as an untrustworthy witness by his own, by your colleague,
2 Senator Ray, and he was regarded as an untrustworthy witness by
3 his colleague, Representative Duncan. And that is the only
4 person in the entire trial that had any direct evidence or a word
5 to say against your colleague, Senator Hohman. Another problem
6 that might cause a person of some inquisitive bent, if a man was
7 on trial, in which they had the slightest interest in his fate,
8 or had followed the advice of the judge which is the law, that a
9 man is presumed to be innocent, if they said to themselves at
10 the start, he's an innocent man, until and unless somebody proves
11 to me the contrary, I will continue to believe he's innocent.
12 The sort of guy that in any situation, you know, looks at both
13 sides of the question and says, What about this, What about that,
14 What about the other thing. Somebody that would keep the jury
15 busy for longer than an hour for considering the evidence against
16 Senator Hohman. What would such a man have thought of the fact
17 that there was no money ever found in this case, nor any source
18 of money ever determined in this case. It was suggested by the
19 public prosecution that the salesman, Mr. Larsen, was going to get
20 a total, aggregate total, of thirty thousand dollars in commissions
21 on these two airplanes and that's where the money was going to
22 come from. Nobody ever explained nor tried to explain why in hell
23 Senator, rather Representative, salesman Larsen, who works for
24 a living, would give away his entire commission, or why he would
25 undertake to pay taxes on it and give tax free money away to

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586-6846

1 anybody. I can tell you and if the Department of Law wants to
2 refute it, I will prove it, because there's reams of evidence
3 that was never presented in the trial that a great deal of public
4 money was spent on sending investigators and attorneys to Canada
5 to interview the officials of Canadair, the people that were
6 supposed to have been involved in this thing, and they roundly
7 refuted any possibility that they were involved. They solidly
8 supported Mr. Larsen, they said that he was respected, that his
9 job was not in danger, and so forth, and yet the prosecution
10 obviously was able to argue that Representative Lar...I'm sorry,
11 I don't know why I keep saying Representative... that the salesman
12 was interested for some reason or another in protecting his job
13 and this is why he would do this sort of thing. And you're
14 going to ask, I suppose, why didn't you bring these witnesses
15 over...I don't have a million and a half dollars to spend, that's
16 why I didn't bring them over, and I don't have extraordinary
17 subpoena power to bring people from a foreign state...you have to
18 go through a State Department to do that...so I satisfied with
19 my arguing which should have been effective, I got one of the
20 investigators to admit that they had visited all these people,
21 and I asked the jury the question, Why aren't they here if they
22 had any incriminating evidence? That's the best that I could do
23 with my limited resources, but I can tell you gentlemen that your
24 State spent a great deal of money going over there and developing
25 evidence that favored Senator Hohman and, of course, you know,

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1 being adversaries and good adversaries in a court situation, they
2 objected to me trying to get it in on hearsay grounds, which is a
3 perfectly valid objection and as a prosecutor I would have done the
4 same thing. I mean, you're out to win after all. Now, here's
5 another thing that I think that a fellow who had a critical bent
6 of mind and was inclined to question things, this might have
7 caused him some concern. Mr. Larsen and Mr. DeMan, both of whom
8 had been indicted and DeMan convicted, they were presented to the
9 jury as two people that were perjurers and they were going to
10 repeat their perjury and the State apparently had no doubt that
11 they had lied before and that they were going to continue to lie.
12 I have a constitutional problem with that that I wish to present
13 to the Supreme Court, but to one side, notwithstanding, that does
14 not concern you, what should concern you is this. Both of these
15 men were given transactional immunity. There is a lawyer on this
16 Committee, that if there is any question about what transactional
17 immunity is, after I finish speaking, he can help you in your
18 deliberations. The transactional immunity is as Senator Dankworth
19 undoubtedly knows as well, is a situation where you are given
20 absolute immunity for any consequences of the crime that you have
21 committed, okay, it does not protect you from charges of perjury
22 if you lie again in the trial in which you were put on as a
23 witness. Both of these gentlemen are given transactional immunity.
24 DeMan had already been convicted on several counts for disagreeing
25 with the prosecution's theory, or for all I know, for lying. I

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1 would add, since we are in a relatively informal situation here,
2 that not one of the counts on which he was convicted had anything
3 to do with a bribe having originated from Senator Hohman. It had
4 to do with disagreements about whether he had talked to Mr. Larsen
5 and so forth. Incidentally, in the summary of material that you
6 were presented with by the public prosecutor's office, it is
7 stated that Larsen had given the same testimony before in State vs
8 DeMan, the same testimony as he gave in Senator Hohman's trial.
9 That's absolutely true, and they convicted DeMan with it, and what
10 I'm telling you is, that when Larsen states something for the
11 purposes of convicting DeMan, he is represented to the jury as
12 truthful. When he states something in favor of Senator Hohman, he
13 is represented to the jury as a perjurer. Now that raises some
14 questions in my mind as I believe that it should raise in yours.
15 But nevertheless, both of these people, and they were threatened
16 in open court and it's on the record, the public prosecutor
17 stated, Do you remember me, my name appeared on your indictment,
18 I'm the guy that convicted you, do you understand what will happen
19 to you if you don't tell the truth here? All right, that's fine,
20 if you want to threaten witnesses and you do it front of the jury,
21 that's great. Because that gives me the opportunity to comment on
22 it, which I did then and which I do now. But what is significant
23 about their testimony, notwithstanding the fact that they run the
24 risk of being indicted for perjury all over again if they repeat
25 their testimony, notwithstanding the fact that they're out of the

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1 woods because of the transactional immunity that has been given,
2 they repeated the testimony that they had given before that this
3 is an innocent man and that he doesn't have anything to do with a
4 bribe. And I would like to know if anybody on this group, can
5 surmise what is the evil control that my client has over these
6 two witnesses to make them put themselves in danger of perjury.
7 It might be argued that perhaps DeMan was a friend of his, but
8 Larsen is not. Now, so I think it's significant, two fellows that
9 are running the risk of perjury, if they do not agree with the
10 prosecutor's theory of the case and they know, because they've
11 been indicted before, get up and say the same thing again after
12 being threatened. Now, I suggested to the jury and I suggest to
13 you that if we had been caught pressuring witnesses and then the
14 prosecution had been able to turn them around and make them tell
15 a different story, why that would have been regarded as very harm-
16 ful to the prosecution's case, or to the defense case. I invite
17 you to look at the...you were provided...if anybody has the time,
18 there's a complete transcript available for you and it is indexed
19 ...perhaps somebody could be delegated to see whether I'm telling
20 the truth about any of these things...but the testimony of the
21 witness, Kim Moore, who in the original trial of DeMan was heard
22 to say that she saw four men going into Senator Hohman's office
23 and they were identified as DeMan, the salesman Larsen, Kocsis
24 and the Senator, okay, a review of our grand jury transcripts
25 indicates very clearly, and they're available, that she had no

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1 such recollection of that in the grand jury. A review of her
2 testimony originally given, her original statement was very
3 confused and no such clear recollection. We demonstrated
4 absolutely and it's there in the testimony, it's not an attack on
5 the investigating officer, but an investigator was sent to
6 Washington to talk to her and I had a complete transcript of his
7 interview with her and in the course of a four hour, roughly sixty
8 page interview, her...it was suggested to her repeatedly what she
9 might have seen, what she could have seen, and when she was asked
10 to try to recall, by the time she got to the DeMan trial, she had
11 remembered...by the time the officer was finished she remembered
12 three people, by the time she got to the DeMan trial another one
13 had appeared. I got to talk to her for five minutes, and then I
14 cross-examined her and she was absolutely unsure of any of her
15 testimony and she was absolutely unsure as to whether she had
16 ever seen that, or whether the suggestive questioning of the
17 officer had indicated it to her. Now, again I don't like to
18 continue to enlist, you know, the support, or even indirectly,
19 my former colleague in law enforcement, but Senator Dankworth can
20 tell you that any good investigator knows that it is extremely
21 dangerous to suggest answers to a witness because we all visual-
22 ize things. I mean, I never saw any of the incidents that
23 supposedly took place in this trial, but I see people rid-
24 ing on airplanes, I see people at breakfast, I see people in
25 meetings, I see every single thing I've heard about, and the same

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1 thing will happen to a witness if you suggest to them countless
2 times, or you repeat to them a number of times, that they may
3 have seen something, after awhile they visualize it. When you
4 ask about it a year later, they don't know whether...what they
5 are seeing in their mind is their memory or their conceptualiza-
6 tion of what they've been told and exactly the same thing happens
7 to you. There isn't a man sitting at this Committee table that
8 when he's reading a book, does not visualize the action that's
9 taking place and there is not a person here that hasn't told a
10 funny story and then is unable to remember whether it's something
11 he saw himself, or it's something that his friend told him about
12 and yet you see the pictures in your mind, that's what I'm
13 telling. Now if we had been caught pressuring witnesses and
14 suggesting answers to them, it would have been very damaging to
15 the defense case and I suggest to you that it raises a reasonable
16 doubt that might have kept some fair minded juror, kept him busy
17 for longer than an hour, and the government does the same thing.
18 And as far as the charts are concerned, if they're here in the
19 room at any place, I wouldn't ask you to, I ask that they be
20 here and I would ask you to at least take a look at them.

21 SENATOR KELLY:

22 Excuse me, Mr. Fraties, we do have the charts available outside.

23 MR. FRATIES:

24 Well, I don't wish to take up our time at this time for, you
25 know, going through all of that stuff, but in your deliberations

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1 I would ask you to look at those charts and to accept my assurances
2 without more, unless somebody wishes to review the transcript,
3 because it's all there, that there is not a single phone call on
4 those charts that is anything but speculation. You have people
5 going back and forth on airplanes, you have phone calls being made
6 from the Senator's office to another office, and so on and so forth
7 and I can tell you that there's not a scintilla of evidence in the
8 entire transcript that indicates that any one of those telephone
9 calls or any combination of them was made for a bad purpose. And
10 from your own experience as legislators I think you'll clearly see
11 that the telephone calls, station to station telephone calls, that
12 were being made are exactly what you would expect in the offices of
13 a busy legislator. Now, it is indicated in this little summary that
14 you were given, that the defense did not attempt to explain how
15 Representative Meekins knew the things about the airplane and about
16 Larsen, and so forth, that he did. Well, you know, if I wanted to
17 indulge in speculation, or if the jurors wanted to speculate or
18 even use their common sense, I would say that Mike DeMan, an
19 impressionable young man who has a big deal cooking of some sort,
20 or apparently so he thought, had lunch with young Mr. Hutchinson,
21 who was a college roommate of Mr. Meekins, who has lunch with
22 Representative Meekins' aides all the time, and is apparently good
23 friends with that group, and apparently according to Mr. Hutchinson
24 Mr. DeMan was talking about the airplanes and so on and so forth.
25 It's also true that Mr. Meekins attended the same fund raisers as

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1 Mr. DeMan did, and if Mr. DeMan was going around boasting about his
2 big deal, and airplanes, and Mr. Larsen, and the possibility,
3 speculative possibility that he was going to make money, Russ
4 Meekins could have got every bit of information that he alleged
5 came from these conversations, from DeMan or by hearsay from other
6 people that were listening to Mr. DeMan as he went around this small
7 community telling everybody about his big deals...didn't require,
8 as the jury was requested to speculate that Representative
9 Meekins could only have found these things out by telling truth-
10 fully, found those things out from my client. Now this is a case
11 where I repeat, I only ask you to, you know, ask somebody to have a
12 look at the transcript to see whether anything that I have said is
13 true, and if anybody is interested and I know you are interested,
14 I don't mean to denigrate your interest, my closing argument, and
15 it's not for pride of authorship, but my closing argument, which I
16 would say is a fairly scathing comment on the prosecution's
17 argument, starts at page three thousand five hundred and twenty-
18 seven, I don't mean it goes three thousand pages, I only mean it
19 goes maybe

20 (Tape ends with the above and then continues:)

21 said, and that brings up, and you have been invited through Mr.
22 Hickey's comments to read the public prosecutor's argument, and
23 that's fine with me too, but my remarks start on page three
24 thousand five hundred and twenty-seven and I raised an awful lot
25 more problems than I've, you know, taken up your time to raise

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1 here. Now we're at, as preamble, this is a case that has been
 2 by its nature, is a sensational case. We are in a posture, where
 3 the legislature, I think, at least not because of the present
 4 incumbent, but has reason to have at least normal concern for the
 5 power of the executive for the reasons that I have given, I suggest
 6 to you ...and I ask that somebody at least check out to see whether
 7 or not I'm exaggerating, that this case was speculative and
 8 emotional in the extreme, that the jury could not possibly have
 9 considered, or even debated, about any of the problems that I have
 10 brought up, and what does that leave us in the era of public
 11 attacks and lack of confidence in politicians. It leaves us with
 12 the fact that there's a distinct possibility that a Senator got
 13 convicted because he was a Senator, and that should cause anybody
 14 concern. Now, what...you know, I didn't come here to argue with
 15 you, it isn't my function. My function would be to suggest some-
 16 thing that might be helpful to you. And I would suggest this, that
 17 in the context where the transcript is already done, where I invite
 18 anybody to refute what I've told you here today and it's all in
 19 the transcript, so I wouldn't be in very good posture to be lying
 20 to you about it, if anybody wants to review any of that stuff, and
 21 in the posture where there have been all kinds of concerns about
 22 the fairness of this procedure, then I would suggest to you that
 23 we who make our living in the law are faced with this phenomena;
 24 we say that a thing must not only be fair, but it must appear to
 25 be fair, in other words, the public perception of fairness must

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1 concern us as well, and I say this not as an attack on my friend,
 2 your counsel, but I mean, even his presence here. Mr. Council is
 3 a member of the firm of Carpeneti and Council, before Judge
 4 Carpeneti went on the bench, that firm represented Russ Meekins,
 5 I mean, what is the public to make of that? I don't suggest that
 6 it's improper, I have absolute confidence in his integrity. We
 7 have a pretrial motion that will still bear some looking at by the
 8 Supreme Court, concerning the affidavits we had concerning the
 9 bias of one or more grand jurors that brought this whole thing to
 10 begin with. And there are other problems that I don't think need
 11 concern us now, but the most critical problem is this, that I
 12 allege to you and my reputation, of course, means something to me,
 13 that there are two major problems that I wish to present to the
 14 Supreme Court of the State of Alaska in which my friend and
 15 revered colleague, Wendell Kay, who's presently...could not be here
 16 because he's presently teaching law at the University of Arizona,
 17 concurs implicitly that our major problems in this conviction and
 18 where you have the possibility of an expedited hearing, that I
 19 would suggest to you that at least it might bear some considera-
 20 tion to proceed with caution in this area, to proceed with due
 21 deliberation, when you can have a final determination from the
 22 Supreme Court by asking for it on an expedited basis. I do not
 23 wish to put the Senate of the State of Alaska in, even in the
 24 jeopardy of having appeared to expel one of their colleagues on
 25 what his client, what his attorney, represents as a weak and

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1 sensational case, because of outside pressure, or any other
2 reason, there are these avenues open to you and I suggest that
3 they bear consideration and I'm deeply appreciative for your
4 having waited for me to come here and I thank you for your
5 courteous attention.

6 SENATOR KELLY:

7 Thank you, Mr. Fraties. Are there any comments or questions from
8 any member of the Committee?

9 SENATOR KERTTULA:

10 I have one question...will Mr. Fraties be here tomorrow?

11 MR. FRATIES:

12 I will be here Senator.

13 SENATOR KERTTULA:

14 And you will be available to ask questions to tomorrow?

15 MR. FRATIES:

16 Absolutely yes, Senator.

17 SENATOR KERTTULA:

18 Thank you very much.

19 SENATOR KELLY:

20 Senator Dankworth.

21 SENATOR DANKWORTH:

22 Just one question. Mr. Fraties, apparently, did you make this
23 same argument that you just made to us concerning the jury before
24 the judge in his consideration as to whether...before he came
25 down with this recent statement...is that argument been made

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1 before the court at all?

2 MR. FRATIES:

3 No, sir. The only argument that I have made before Judge
4 Serdahely is also in the transcript and it's repeated in its
5 entirety and immediately after the jury came back I made an oral
6 ...stating that they had not been deliberating for a sufficient
7 amount of time and I have...he has, as you're apparently aware,
8 he has denied that motion; he has left a motion open...I've also
9 submitted (indisc.) saying the same thing...he has denied
10 that motion...he has left open a further motion that I have made
11 for juror misconduct, which is still under investigation, and
12 that is left open by his order for future hearing when my
13 investigation is completed. I do not allege at this time that
14 we have concrete evidence, but we have a lot of interesting
15 leads that we're following up.

16 SENATOR DANKWORTH:

17 Thank you, Mr. Chairman.

18 SENATOR KELLY:

19 Senator Hohman, did you have anything to add, sir?

20 SENATOR HOHMAN:

21 Yes, sir. Counsel has requested that some of the exhibits that
22 were presented during the trial be present for Committee
23 consideration and they are present, but I think that you can
24 look around the room and see that there isn't adequate space
25 for that presentation. Also, by my count, I think we have had

1 seven members of the body present, five of which are on this
2 Committee, that means that there were twelve that either
3 couldn't find the space to come in and audit this meeting, or
4 for whatever reason are not here. I would like to have the
5 Committee, therefore, consider my request to restage tomorrow..
6 reset the stage for tomorrow's hearing to some other location
7 that does offer more room. I know that one consideration is
8 that we have to have TV outlets. I think the floor would offer
9 not only more room, more seating space, comfortable for the
10 members of the Senate, and they have gallery space off the
11 center floor that would provide for the members of public that
12 would like to observe the proceeding. I think it's wired for
13 TV, so every interest can be accommodated by staging
14 tomorrow's hearing for the floor and it is a day that the
15 Senate does not meet and it wouldn't interfere with the
16 calendar that your committee may have established. I'd just
17 like to emphasize one of the points that Mr. Fraties has made,
18 and that is that we do have the transcripts, there's an
19 interest of the Senate as an institution to be considered here
20 and that we should request as a body the expedited appeal
21 consideration by the court, as we proceed through this and
22 expeditiously handled...they have a precedent for handling
23 matters of this urgency...the Hickel-Hammond election case, for
24 one, and so forth. I think that it could be handled in a
25 relatively short period of time and it would serve the

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580 6846

1 interests of, certainly of me personally, but of this body and the
2 public. I would like to talk about some of the exhibits, but I
3 will defer that until tomorrow, if we have adequate space to do
4 it then, sir.

5 SENATOR KELLY:

6 Senator Hohman, two things, of course, it's not necessary to have
7 this number of chairs inside the committee room since it is being
8 televised and can be picked up in any office within the Capitol
9 Building, it's my understanding. We will make certain that
10 tomorrow there are twelve chairs set up to the side, or fourteen
11 chairs set up, for the remainder of the Senate who wish to attend.
12 In the meantime, we can certainly put all of the exhibits on
13 display right outside the room and we can, as you want to, bring
14 each exhibit up or indicate your desire in each exhibit, we can
15 bring it into the room. But I think in this particular case that
16 we will maintain our presence here because we're set up here and
17 we've...it's been announced that the meetings will be in this
18 room; we will make certain, sir, that there is room tomorrow for
19 all the remaining fourteen senators to be present.

20 SENATOR HOHMAN:

21 Thank you, sir.

22 SENATOR KERTTULA:

23 Mr. Chairman.

24 SENATOR KELLY:

25 Senator Kerttula.

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1 SENATOR KERTTULA:

2 Have you established that there is sufficient space for the
3 exhibits to be placed up so that the witnesses can show them,
4 explain them, in a reasonable manner...not...is there space in
5 this building, right here for instance...is there sufficient
6 space...is this a problem? I think we ought to be certain that
7 it is NOT a problem.

8 SENATOR KELLY:

9 Senator Kerttula, we can work out the logistics between now and
10 tomorrow. If, in fact, we can't do it, we could certainly
11 switch to a larger area tomorrow.

12 SENATOR KERTTULA:

13 I recognize the public interest and our colleagues' interest
14 while they're watching (indisc.) but I also recognize the
15 fact that we should provide whatever is necessary that the Senate
16 itself is (indisc.) the decision for writing the
17 transcript, and we, TV cameras or not, I for one am not a
18 gladiator.

19 SENATOR HOHMAN:

20 Mr. Chairman, it's my understanding that there are only three
21 TV sets hooked up to the outlets that were made available to the
22 Senate this session, so that is not, at this point in time, if
23 that is factual, a satisfactory alternative for the Senators to
24 deal with, in these proceedings.

25 SENATOR KELLY:

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1 Are there any further comments?

2 SENATOR FERGUSON:

3 Mr. Chairman, I move that we hold the meeting tomorrow in the
4 Chambers.

5 SENATOR DANKWORTH:

6 I'll object, for just the purposes of discussion. Maybe I've
7 lost this a little bit, Mr. Chairman. What did you say, that
8 you would accommodate the request in this room?

9 SENATOR KELLY:

10 Senator Dankworth, what I said was that we would make certain
11 that we had fourteen chairs set aside in this room for any other
12 members of the Senate that would like to be present and we would
13 make space available out in the hall to establish the exhibits
14 and it's my guess that we can make...set up the room for the
15 exhibit, that it can be held in this room. (Indisc.)

16 (Unidentified voice.)

17 But that's beside (indisc.)

18 SENATOR KERTTULA:

19 Mr. Chairman, Mr. Finance Chairman, subsequently to his state-
20 ment I asked if there was exhibit space in this room so that a
21 free folding, unfolding of the advance that wished to be express-
22 ed can be done so in an orderly fashion. It is my understanding
23 unless the chairman is...unless I did not understand the chair-
24 man, that he is guaranteeing that exhibit space will be avail-
25 able, so the unfolding of the advance which to be expressed,

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1 harassed, interrupted and confused, and that's his answer, and
2 my opinion is that if it's not true, then I suggest, and I will
3 suggest tomorrow, that we make certain that this become true
4 before we sit down for this thing and I think the Rules Chairman
5 is in accord with that, I hope that he is.

6 SENATOR KELLY:

7 That's fine. Between now and tomorrow we'll establish the fact
8 of whether or not we can have the exhibits in this room and if we
9 can we'll go ahead and hold the meeting in this room. Without
10 objection, if we can't, we'll find another area to hold it.

11 SENATOR FERGUSON:

12 Mr. Chairman.

13 SENATOR KELLY:

14 Senator Hohman

15 SENATOR HOHMAN:

16 I've had the unfortunate experience of having contact with those
17 exhibits and I lived with it for almost three weeks and I know
18 that no one else on this committee did, but it's my opinion that
19 this room does not offer the physical space that would allow for
20 the presentation of this material. But I'm sure that you, after
21 the meeting, will become familiar with those exhibits and make
22 judgment.

23 SENATOR KELLY:

24 Senator Dankworth.

25 SENATOR DANKWORTH:

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1 Mr. Chairman, just to make sure we understand each other and for
2 Senator Ferguson's motion, it's my understanding that what the
3 Senator, the president, said, if you find that you can't make that
4 work, then we do agree that we can move into the Chambers.

5 SENATOR KERTTULA:

6 Or some appropriate place.

7 SENATOR DANKWORTH:

8 Or some appropriate area.

9 SENATOR KELLY:

10 Senator Ziegler.

11 SENATOR ZIEGLER:

12 It seems to me if the man with whom we're all involved now in his
13 future does not want to have the meeting held in this room, but
14 would prefer to have it held elsewhere, I think we honor that
15 request. I think Senator Ferguson's motion is perfectly in order.

16 SENATOR KERTTULA:

17 I think it ought to be established for certain in the minds of
18 Senator Kelly, who is the chairman, and that he should bring it
19 to our attention, I think I'm pretty much on record that I don't
20 want an interruption, perhaps there won't be one, if we use this
21 room. I realize it's like the argument of the round table, with
22 two sides, U. S. and Russians, but that isn't the intention here,
23 sir.

24 SENATOR KELLY:

25 Well, let's...Senator Ferguson, why don't we leave it at the fact

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1 that if we can hold it in this room we will, if we can't, we'll
2 look for another suitable spot, if that happens to be the Chamber
3 and only the Chamber, well then we could hold it in there.

4 SENATOR FERGUSON:

5 I'll withdraw my motion, but I feel that it's important that we
6 have a place big enough, and the Chamber seemed to be the
7 (indisc.) place.

8 SENATOR KELLY:

9 Are there any other comments by the members of the Committee, or
10 Senator Hohman or Mr. Fraties?

11 VOICES UNIDENTIFIED:

12 No. No sir, thank you.

13 SENATOR KELLY:

14 The Rules Committee is then adjourned until 1:00 p.m. tomorrow,
15 here, or somewhere else.

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506-6848

1 SENATE RULES COMMITTEE

2 ALASKA STATE LEGISLATURE

3 Twelfth Legislature - Second Session

4 January 30, 1982

5
6 SENATOR TIM KELLY, Chairman

7 SENATOR M. E. DANKWORTH, Vice-Chairman

8 SENATOR FRANK R. FERGUSON, Member

9 SENATOR JALMAR KERTTULA, Member

10 SENATOR ROBERT H. ZIEGLER, SR., Member

11 Also in attendance:

12 SENATOR GEORGE H. HOHMAN, JR.

13 GAIL ROY FRATIES, Counsel for Senator Hohman

14 WILLIAM T. COUNCIL, Counsel for Senate Rules Committee

15 * * *

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17 SENATOR KELLY: The Rules Committee will come to order.18 This is January 30, 1982. Let the record show in
19 attendance the Senators Ferguson Dankworth, Kerttula,
20 Ziegler and Kelly, and Senator Hohman and his attorney,
21 Gail Fraties, are here.22 It is the consensus of the members that due
23 to the cancellation of Thursday's meeting, and having
24 to compress three hearings into two days, that an
25 additional day is necessary to study the testimonyTAKU REPORTERS
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1 and material that we received yesterday and will be
2 receiving today. We consolidated our timetable by
3 recessing today's meeting until 9:00 a.m. Monday
4 morning in the Butrovich Room.

5 It is the Chair's intention, at the end of
6 today's meeting, to recess until Monday morning to
7 make our final recommendation to the Senate. I would
8 emphasize to the Committee that no time will be lost
9 from our projected schedule by doing this, and the
10 business on today's calendar will be to listen to
11 Senator Hohman's testimony and the testimony of his
12 attorney, then listen to the testimony of the Committee's
13 counsel, William T. Council, of Juneau, and recess the
14 meeting then until Monday morning, at which time we will
15 make a recommendation to the entire body.

16 If, in fact, a resolution is called for, it
17 could still be introduced at Monday morning's session.

18 Senator Hohman, you have the floor first.

19 SENATOR HOHMAN: Thank you, Mr. Chairman. I'd like to
20 express my appreciation for the restaging of this
21 meeting today, to you personally. This does, as you
22 see, allow for the presentation of these charts, which
23 would have been physically impossible in the Butrovich
24 Room. I'd thought that if we had staged this for the
25 Senate floor that we might also make provision for the

1 other Senators to be present. I think it's important
2 that they listen to this presentation, especially if
3 they're going to be called upon to make a decision and
4 to cast a vote. And I noticed yesterday that we had
5 Senator Sturgulewski and Senator Fahrenkamp present, and
6 today we have Senator Colletta present, in addition to
7 the members just of the Rules Committee. Hopefully,
8 the other Senators are taking advantage of the cable
9 hookup and watching these proceedings on TV, because
10 this is a very serious matter, and the presentations that
11 are made should be made to the entire Senate body.

12 But I thank you for your consideration in
13 restaging this meeting to the Senate Finance Chambers,
14 where we are now.

15 I have no comments at this time. Mr. Fraties
16 does, though. Thank you, sir.

17 SENATOR KERTTULLA: At this interlude I just want to ask
18 one question of the Chairman.

19 SENATOR KELLY: Senator Kerttulla.

20 SENATOR KERTTULLA: Is it being recorded? Do we have a
21 formal recording of this?

22 SENATOR KELLY: Yes, we do, sir.

23 SENATOR KERTTULLA: Thank you so very much.

24 SENATOR KELLY: Mr. Fraties.

25 MR. FRATIES: Thank you, sir. Mr. Chairman, for the benefit

1 of those Senators who may have been unable to watch
2 yesterday, but not at the expense of taking undue time
3 to do so, I'm going to summarize very briefly where I
4 left off yesterday, in order to put them in the picture
5 if they should be watching today, and for the benefit
6 of anyone here that may feel that their memory is
7 refreshed by my comments.

8 Yesterday I pointed out that this is your fellow
9 colleague and that he has been convicted, at least so
10 his counsel asserts, on speculative evidence in a
11 sensational case, at an enormous expense to the State.
12 I stress the unusual power of the Executive Branch in
13 this state, and I pointed out the avowed purpose of
14 the public prosecutor, and I quoted from his remarks,
15 to "clean up the Legislature".

16 I stated that there was a precedent to be set
17 here, and I very strongly urged this body to consider
18 the alternative that before you, to ask for an
19 accelerated hearing before the Supreme Court of this
20 State, given the importance of this case. The transcript
21 is already prepared, and it's my personal estimate of
22 time, that if we were to begin immediately that the
23 case could be fully briefed and argued within forty-five
24 to sixty days.

25 I stressed the weakness of the case that was

1 presented against your colleague, and I told you, also,
2 that there was a basic anomaly in the whole case that
3 should have bothered any jurors that took his or her
4 duties seriously enough to debate the various weaknesses
5 that the defense pointed out. And the basic anomaly
6 is that your colleague was presented to the jury as a
7 man who had used a talkative, young, sometime aid and
8 friend, as a go-between on twenty-four hours' notice as
9 go-between with a man he had never met, concerning money
10 that he never saw, and wasn't sure that it would ever
11 materialize, to influence the vote of a man that he
12 didn't trust, to do something that had already been
13 accomplished.

14 And that, if I understand the prosecution's
15 case, for a net profit to himself of Six Thousand Six
16 Hundred and Sixty-Six Dollars and Sixty-Seven Cents,
17 because their theory is that there was Twenty Thousand
18 Dollars available and that it was to be split three ways.
19 The participants, according to the theory of their case,
20 were to be Mr. DeMan, Representative Meekins and Senator
21 Hohman.

22 They still have young Mr. Kelly to try, and I
23 don't know how they're going to tie him into this payoff.
24 Presumably they will argue that that's what we mean when
25 we say that crime doesn't pay. There's no money left to

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tempt Mr. Kelly.

I summarized ten or more areas of unresolved contradictions in the State's case, not because I wish to argue the case of Senator Hohman again to you as a body, but because I wish to point out that the jury, which, as I demonstrated to you, could not possibly have meaningfully debated this case for more than an hour, if that long, came back with two convictions against your colleague, and it appears to me that they did so because he is a senator, and not because he is a guilty man.

I then pointed out to you -- and we get to today's presentation -- that the State then went on to bolster the contradictory evidence given by their star witness, and I pointed out the defects in his testimony and the problems with his credibility yesterday.

They bolstered up the contradictory evidence of the only witness in this whole case that said a word against Senator Hohman. and I pointed out to you also yesterday -- and I wish to refresh your memory on this point, although I know that you are probably very well aware of it -- that the State threatened two witnesses publicly that if they were to stick to their original testimony, that they would be indicted, although they stood to be indicted all over again for perjury, and

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those men, nevertheless, took the stand and repeated that Senator Hohman had nothing to do with any bribery attempt, nor was there any bribery attempt. I fail to see and I have never seen why they should do such a thing if they were not telling the truth.

Now, if I -- may I approach the exhibits, Mr. Chairman? The exhibits that you see before you are those that were sent to the jury room in what I can only characterize as a game-show atmosphere of this case. Now, I present them to you not only to demonstrate to you their basic unfairness as exhibits, but also the fact that here is a jury that had all of this material to review, had literally hundreds of documents that they could have, if anybody had been critical enough to determine whether or not any of this stuff was substantiated by the documents, they could have at least spot-checked, and I submit to you that in an hour, they had neither the time to debate any of this stuff, nor to find out whether any of it was actually true.

I'm not going to try to attempt to explain to you all over again the significance of these charts but if you wish to review the -- take the time or delegate one of your members to review the final arguments that were made, I think that the final

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1 arguments make it clear enough, particularly that of
2 the public prosecutor, and of course my comments
3 were highly critical of his presentation.

4 I'll ask you to remember that I've reminded you
5 yesterday that all of the material, most of the
6 transaction of the week that these charts cover, took
7 place after the bill had already been passed, had already
8 been approved by the Conference Committee of the
9 House of Representatives and the Senators, had already
10 been approved and sent to the printer, and all of this
11 activity, practically without exception, takes place
12 after that has been accomplished, which is part of the
13 basic anomaly that I've been talking about.

14 All of these telephones are color-coded, and I
15 believe their significance is explained over here: the
16 yellow phones are Mr. DeMan; the blue phones are Senator
17 Hohman; green is Kelly and red is Larson. However,
18 they are not those individuals. These are station-to-
19 station telephone calls and, as this chart indicates,
20 "phones associated with." Phones associated with Senator
21 Hohman were the phones that are in his office that were
22 not only available to his staff, but were available to
23 people who, at that time used this room, if I'm not
24 mistaken in my time line, and then had to make an
25 immediate telephone call and dropped into his offices

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to do so. Many friends, legislators and other people used those phones. So these are phones "associated with."

There appeared before the jury a few witnesses that testified as to the contents of phone calls because they were participants. Mr. DeMan did. As I recall, Mr. Larson identified a few of them. With any telephone call that was identified to the jury by a participant, was identified by the participant as an innocent telephone call. The only testimony in the case about any telephone call where we can identify who actually was speaking was given by people who characterize the telephone calls as innocent in content.

For example, Mr. DeMan made a series of telephone calls from Senator Hohman's office to his wife at Sohio B.P. That is an ethical violation, I suppose, and Mr. DeMan did not have Senator Hohman's permission to do that as testified by Senator Hohman and Mr. DeMan and other people on the staff.

Nevertheless, I suppose he took advantage of a friendship, perhaps expecting to pay for the telephone bill later, and he was making phone calls, as he stated to the jury, to his wife because they were having marital problems at that time and they were subsequently divorced.

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1 I can tell you gentlemen that I have read
2 the lady's statement to the police and that her
3 statements to them do not contradict what Mr. DeMan
4 said, and, of course, she was never brought back
5 by the prosecution to contradict him. So I must
6 assume that it is quite possible that he was
7 telling the truth. Nevertheless, having been
8 presented to the jury as a perjurer who is going to
9 perjure himself again, the prosecution suggested a grand
10 scheme of telephone calls that is consistent with
11 calls back and forth to determine whether it is necessary
12 to get bribe money. All of this after the bill is sent
13 and on its way to the printers. And they have a very
14 lurid and fanciful story to tell.

15 The logical problem with the story that they
16 tell is that you can make that story out of it, or you
17 can make any number of stories out of it, depending
18 upon your view of the evidence, or depending upon your
19 view of Senator Hohman, or depending upon whether or not
20 you wish to convict him. But there is a theory at law
21 that used to be -- and I will defer to my colleague
22 on your Committee -- that there used to be an
23 instruction that if there were two theories of evidence,
24 one of which was consistent with innocence, that you must
25 adopt the theory that is consistent with innocence.

1 There is no longer that instruction in the law
2 because the courts have construed that the mere
3 theory of reasonable doubt, as applied to a man that is
4 presumed to be innocent, is quite sufficient without
5 reminding jurors -- without having to remind jurors
6 or anybody -- that if there are two ways to look at
7 evidence, and one of them is consistent with innocence,
8 and you are required by the law to believe that the man
9 is innocent until he is proven guilty beyond a reasonable
10 doubt, then you should and you must adopt the theory
11 that is consistent with innocence.

12 These telephone calls, many of which were one-
13 minute calls -- and I fail to see how very much of any
14 significance could be done in a one-minute call -- this
15 pattern of telephone calls the jury was asked to believe
16 proved beyond a reasonable doubt that there was a plot
17 going on among these people to influence legislation
18 that had already been sent to the printer.

19 Now, with the assistance of this chart here, the
20 prosecution wished the jury to believe that there was
21 a significance in their time line, the date of May 1,
22 I presume that it is, the date that so much of this
23 activity was supposed to be happening and the date, if
24 I remember correctly, that Senator Hohman was supposed to
25 have first revealed his nefarious plan to Representative

1 Meekins.

2 The problem is that an investigation of the
3 charts and cross-examination of the officer that did
4 the investigation revealed that these thirteen phone
5 calls, of the thirteen phone calls, of the thirteen
6 phone calls were -- I forget how many of them, but
7 a significant proportion of them -- were one-minute
8 phone calls, that he admitted -- it may have been
9 four or perhaps five -- that he admitted would have
10 had very little significance unless somebody had the
11 capacity to say a great deal in a minute, and he
12 agreed with me that perhaps they were of no significance,
13 which would have cut this thing almost in half.

14 He admitted also that they had omitted telephone
15 calls that were made on other days because they had
16 personally determined that they were of no significance
17 in this case, so they just left them out, and in short,
18 what they did was to cook up a chart that made it appear
19 that there was a very significant activity on the day
20 that it was important for them to believe that something
21 bad had happened.

22 Of course, these telephone calls are still
23 between people that -- we don't know who they were.
24 They only surmised that there were telephones available
25 to them, and I'm not trying to be overly humorous

1 when I say that in the office in which I practice in
2 Anchorage, there are six or seven other lawyers and that
3 telephone number is associated with Gail Roy Fraties and
4 God knows who my partners may be calling at any given
5 time, or who may be calling them. That's my point.

6 I will represent to you, in case anybody becomes
7 -- their curiosity becomes sufficiently piqued to check
8 what I'm saying and to look at some of the testimony --
9 that the telephone calls became ludicrous after a
10 bit of cross-examination of the people who were making
11 these charts because they simply didn't know what
12 any of them were about except for witnesses who could
13 identify them, who uniformly said that they innocent,
14 the ones that they identified, or who the participants
15 were. And I think it is significant that Senator Hohman
16 has never been tied in to one telephone call on all of
17 this color conglomeration here or in all of these charts.
18 The State was unable to refute his naked assertion that
19 he made no telephone calls to anyone. After twenty
20 months of investigation and an expenditure of a million
21 and a half dollars, they couldn't find one person
22 that could tie Senator George Hohman into one telephone
23 call on this cockamamie chart of theirs.

24 Now, a cross-examination of the officer revealed
25 that none of these calls had been made on weekends, and I

1 argued to the jury -- and I will argue to this body --
2 that if people were engaged in clandestine activity,
3 I think that it would be consistent with them doing it
4 on weekends and not during office hours. If they were
5 engaged in normal activity -- and all of these phone
6 calls were demonstrated to be engaged or to be consistent
7 with the normal activity of the offices, and the fact
8 that Mr. DeMan had offered to help his friend, Mr. Chip
9 Kelly, introduce Mr. Larson around in the Legislature,
10 which I don't believe is inappropriate conduct or unusual
11 in Juneau, Alaska -- that all of those phone calls
12 were consistent with an innocent purpose.

13 Now, nevertheless, they were all made during
14 business hours, when you would assume that people
15 that were on business would be working. None of them
16 were made on weekends, when you would assume that
17 people who were up to clandestine activities and didn't
18 want their colleagues and so on and so forth to spot
19 them would be making phone calls.

20 And I said to the jury and I say to you,
21 gentlemen, what the hell kind of a criminal is this
22 that works a forty-hour week? I just don't buy the
23 telephone call chart. But the jury apparently did,
24 although, as I stressed to you yesterday, they did not
25 take the time to look at any of this stuff or to even

1 reason with it, much less to criticize it.

2 Now, I'm not particularly proud of it, but I
3 suppose that it has its amusing side-line, that when
4 I was asked late one night by a reporter -- and I suppose
5 that I'd probably seen the bottom of a glass a couple
6 of times -- I was asked late one night something about
7 Representative Meekins, and the reporter was obviously --
8 or seemed to me obviously -- hoping that my client was
9 going to be convicted, and I made a remark that was
10 consistent with "They'd better bring a body back
11 when they put him on the stand for cross-examination."

12 I will tell you gentlemen because it is absolutely
13 true that in the following two days, I had calls from
14 at least four or five people that have been associated
15 with notorious murderers in the state. I had a call from
16 a Teamster, of all people, that was a one-time suspect
17 of the North Star Terminal murders. I had a call from
18 another client who is presently serving a long prison
19 sentence for assaults with a deadly weapon. I didn't
20 have anything to do with his conviction but I defended
21 him at a later time successfully. And he also was suspected
22 of half of the unresolved murders in the state. The
23 first guy was calling me about a Workmen's Compensation
24 case. The other fellow was calling me because he wanted
25 to know something about his parole. A gentleman who is

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1 suspected widely of being involved in Mafia affairs
2 in Anchorage -- although I know him as a courteous
3 and friendly gentleman and a friend of mine -- called
4 me because he was having trouble with his wife. He
5 thought she'd run away with a hypnotist or something or
6 other.

7 And I get these nutty phone calls all the time,
8 and I can see Senator Ziegler smiling because he's a
9 lawyer and I presume that he knows what I'm talking
10 about. I mean every time the moon is full I get nutty
11 phone calls from my clients.

12 And I can presume there is a chart the size
13 of Southeast Alaska around someplace just waiting to tie
14 me in because those cotton-picking phone calls are
15 associated with my number, and my fellow attorneys
16 in that office represent Teamsters and labor unions
17 and labor leaders and everybody else in the state that
18 is suspected of all kinds of activity, and I suppose
19 their calls are going down on my chart, too.

20 So what is the significance of this little
21 personal history, other than to point out an amusing
22 coincidence? The significance is that when I made what
23 could be interpreted in certain circles -- although
24 I certainly hope that Representative Meekins didn't
25 do that -- when I made what could be interpreted as a

1 death threat against this witness, a whole bunch of
2 people that are associated with that kind of industry
3 phoned me, or are reputed to be associated with that
4 kind of activity.

5 And so if anything ever happens to poor
6 Representative Meekins, I suppose I'll be looking at
7 one of these charts. I hope not, but it is a distinct
8 possibility. A precedent has been established of how
9 you convict people for unidentified telephone calls.

10 Now, this is -- I'm having trouble with this.
11 Excuse me for a second. The cable was trying to eat
12 me up here. That is my opinion of the charts, and of
13 course you are going to have time to look at them
14 for yourself. But I told you that I had problems with
15 them. I want to tell you also that when the final
16 argument was made, there were all kinds of stick-on
17 overlays stuck up there that were essentially part of
18 the prosecutor's argument. We couldn't find them today
19 for this presentation, but there were also flash cards
20 with significant sentences on them and so forth, which
21 is fine, except that the jury didn't pay any attention
22 to any of this stuff, and it was meaningless in the
23 first place.

24 That is why -- that is the final part of my
25 representation to you that your colleague was convicted

1 on questionable and speculative evidence. There is an
2 instruction that is invariably given in criminal cases
3 that you must not convict on speculation. You must not
4 convict on speculation, speculation, speculation,
5 speculation. But they did.

6 Now, I don't say this to be humorous. I say
7 this because it is true. If you give me a million and
8 a half dollars, Senators, and let me go through your
9 telephone records with unrestricted subpoena powers to
10 grab the telephone records of your office and of every-
11 body that you are associated with in any sort of enterprise,
12 and of your friends and relatives and I'm working to
13 prove some kind of a theory, and I've got two full-time
14 investigators, and I've got all your telephone calls from
15 your office, your home phones, the home phones and
16 office phones of all your associates, and I have the time
17 and the money and the energy to cook up a fairy story
18 like this, I'll tie you right into the Kennedy
19 assassination. That's true.

20 This is a time of historic precedence for your
21 colleague and for yourselves. I don't want to stress
22 the fact that in his enthusiasm to influence the jury,
23 the young prosecutor stressed the fact that they were
24 going to do a clean-up on the Legislature. They are
25 going to put a stop to all of the horrible activity

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1 that is going on over here. But I do say this. Your
2 colleague was convicted by a jury that did not take
3 the time to deliberate and on weak and speculative
4 evidence.

5 He has very important points to make on appeal.
6 He can do so rapidly. You know, the sports equivalent
7 of what I'm saying is that the opera isn't over till
8 the fat lady sings, and that our Supreme Court has
9 not seen the very real problems that I have with the
10 presentation of this case, problems, I must tell you
11 for your own view of the credibility of my assertions
12 that my revered and respected colleague, Wendell Kay,
13 who is presently teaching law in Arizona, shares, and
14 so do the people that are going to do the appeal work
15 which we are prepared to begin now.

16 I am asking this panel, which I can't help but
17 -- I guess it is a lifetime habit -- but approach as
18 a jury. I am asking you to treat your fellow colleague,
19 Senator Hohman, with more deliberation and more
20 consideration for his very real problem and yours
21 than the trial jury did.

22 There is a saying that those who do not study
23 history are condemned to relive it. And this is
24 history in the making. I know that you are a
25 responsible group, a responsible people. There are two

1 Senators here that have been my friends since I came
 2 to Alaska. There is another Senator with whom I was
 3 honored to serve in law enforcement. I have no doubt --
 4 and I did not have the pleasure of knowing the other
 5 two Senators until this meeting -- that I do not have
 6 any doubt of your integrity, and I thank you and my
 7 client, Senator Hohman, thanks you for your unfailing
 8 courtesy in this presentation.

9 SENATOR KELLY: Are there any questions from the Committee
 10 to Mr. Fraties? Senator Kerttula?

11 SENATOR KERTTULA: Thank you. I have just two questions,
 12 Mr. Fraties.

13 MR. FRATIES: Yes, sir.

14 SENATOR KERTTULA: Gail -- and I can find this out from
 15 finishing up on summations -- but was this evidence
 16 you've now presented part of the summation, final
 17 summation, is that when it was brought in, of the
 18 prosecutor, or was it part of the evidence 's you
 19 proceeded on?

20 MR. FRATIES: What happened, Senator Kerttula, is that as the
 21 case proceeded, each item of evidence, although it was
 22 not, in many cases, circulated to the jury -- in the vast
 23 majority of the cases, the jury did not actually see the
 24 item of evidence -- but a witness would come forward
 25 and identify a telephone bill or something or other

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1 and say that it indicated that a call had been made
2 from 465-3880 to 681-2492 at such and such a time,
3 such and such a place.

4 To be consistently fair, if I can, to the
5 prosecution, they slugishly detailed all of their
6 evidence as it came in. The jury, of course, never took
7 the time to look at it, but if they believed the
8 witnesses that testified to it, I suppose that, you know,
9 they were entitled to, if they didn't wish to spend any
10 time considering the case, simply believe what they
11 heard without checking it for themselves.

12 But each telephone call was identified by
13 a document or something or other in evidence as it came
14 in, and then finally, in the final argument, in the
15 summary of the case, the prosecutor invited the jurors
16 to look at the documents themselves and they would find
17 that all of these telephone calls were, in fact,
18 reflected in the evidence, which is not here today.
19 This is only the summary.

20 These charts went into the jury room over
21 our objection because they were essentially a final
22 argument, but I don't criticize the judge for that.
23 That was a legal dispute, but they went into the final --
24 into the jury room with the jurors and they are, as you
25 will see by the little yellow tags, marked in evidence.

1 SENATOR KERTTULA: You are saying, then, that there was
2 no opportunity of rebuttal once the charts were put in
3 evidence; it was the final statement of the prosecution
4 insofar as charts existing?

5 MR. FRATIES: That was their case, Senator Kerttula, and, of
6 course, I made the criticisms and I must say stronger
7 criticisms to the jury of the charts and their
8 significance, and at that time, with the time that I
9 had allowed and so forth -- and it is reflected in my
10 final argument -- I criticized individual telephone
11 calls and pointed out anomalies, as I have done in
12 summary to you Senators.

13 SENATOR KERTTULA: So you had the opportunity for rebuttal
14 before ---

15 MR. FRATIES: Complete opportunity. As is true in any
16 criminal trial where the defense attorney -- as is my
17 present occupation in life as a defense counsel -- since
18 the State has the burden of proof, they open in the
19 argument. Then I was allowed to speak at length, at
20 any length that I wished. Of course, then they have
21 the opportunity to rebut, as we say, what I've said,
22 so they have the final say, and truthfully, it usually
23 ends up with their picking up on something that you
24 forgot to talk about, but, you know, it is too late then.

25 But I was given a complete opportunity to argue

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1 my case, if that is your concern, yes.

2 SENATOR KERTTULA: I was just -- yes. I knew the
3 system and that was the reason for my question. I
4 was wanting to be absolutely certain that you did have
5 a chance to rebut.

6 MR. FRATIES: Very definitely.

7 SENATOR KERTTULA: One other question, and this is one of
8 those times that I'm not certain that -- that I know
9 what I see. I'm not sure you are privileged, but
10 what are some of the points of appeal, or are you
11 privileged to make any of them at this time?

12 M.R. FRATIES: I think that in a case of this magnitude
13 since I have already made a public record, as has my
14 colleague, Wendell Kay -- and it is all part of the
15 transcript, anyway -- and it is a matter of public
16 record since it has already been mentioned in court,
17 there are two major points on appeal. One of them is
18 the questionable use of people who are presented
19 to the jury as perjurers.

20 We presented to the Court -- and this is no
21 reflection on Judge Serdahely. It is simply a
22 disagreement on law between people, all of whom are
23 presumed to be versed in the law -- and he was supported
24 of course in his decisions that were ruled against us
25 by the prosecutor, and these things, as you undoubtedly

1 know are often subject to scrutiny by the courts.
2 But we pointed out that our investigations and our
3 legal research had revealed that the United States
4 Supreme Court and other courts of repute have consistently
5 rejected the use of perjured evidence by the prosecution.
6 They have not said, "You can use it if you tell the jury
7 they are going to perjure themselves." They have said,
8 "You may not consciously use perjured evidence," for
9 obvious public policy reasons. And the prosecutor
10 took the point of view that if he told the jury that
11 those people were going to perjure themselves, it was
12 all right.

13 Well, my point of view is that thereupon it was
14 thrust upon me the necessity of defending three men
15 rather than one: defending the integrity of Mr. Larson,
16 Mr. DeMan, as well as my own client. And, of course,
17 the ultimate thrust of the prosecution's case was that
18 here are two perjurers to tell you that Senator
19 Hohman is innocent. Which is a very difficult argument
20 to refute and I think it is unfair and it is unconstitu-
21 tional. That is my opinion and that is the presentation
22 we will make to the Supreme Court.

23 The other point that we wish to make on appeal
24 is -- oh, what the hell -- I'm sorry. I'm having -- oh,
25 thank you. I'm having a temporary lapse of memory.

1 The other point that arose late in the trial
2 is the questionable use of the Grand Jury subpoena power
3 to grab all of these documents.

4 Briefly stated, the U.S. Supreme Court, in
5 Federal cases, has taken the position which the
6 prosecutor urges, that a Grand Jury subpoena may pick
7 up almost any document it wants to because the right
8 of privacy is not a Federally recognized Constitutional
9 privilege. However, here in Alaska, the right of
10 privacy has been raised to a Constitutional privilege.
11 It is in our Constitution, and the Raven case and other
12 cases have indicated that our Constitutional privilege
13 of privacy means that we are more secure in our homes
14 than we would be if we were simply dependent upon
15 the Supreme Court of the United States and the United
16 States Constitution. In other words, we put a higher
17 degree of value on privacy.

18 Now, so do the Californians, and the Supreme
19 Court of California -- and for this discovery, I am
20 indebted to my colleague, Mr. Kay, who came across it
21 while researching another point -- in the State of
22 California where the right of privacy also has
23 Constitutional status, the courts have consistently
24 said that the Grand Jury subpoena power may not be used
25 to seize documents in which one has a reasonable degree

1 of expectation of privacy, which would certainly include
2 telephone records, travel records, and so on and so
3 forth, in fact, ninety percent of the records
4 that were seized in this case.

5 We made a motion to eliminate ninety percent
6 of their evidence and Judge Serdahely ruled at that time
7 that it was too late to do so, but without passing
8 on the question itself. Nevertheless, that is a
9 Constitutional question, and very well could result
10 in a reversal, in my opinion, of this case.

11 I say this not, I believe, in violation of
12 a lawyer's stricture on discussing cases that are
13 going forward, but because I know that the Supreme
14 Court is absolutely impervious to anything that I may
15 say, and because you have asked the question, and because
16 you have a right to know, and because it is a matter
17 of public record.

18 SENATOR KELLY: Senator Ziegler?

19 SENATOR ZIEGLER: Mr. Fraties?

20 MR. FRATIES: Yes, sir?

21 SENATOR ZIEGLER: Could you, for the benefit of not only
22 the Committee members and myself but for those assembled
23 here today go into the timetable aspect of what we are
24 talking about? Tell us first of all what would take place
25 on March 9th, which, I understand, is the day set for

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1 sentencing, and then I would like you to comment on
2 whether or not you feel -- I know how you feel: you
3 are prepared to expedite the appellate procedures, and
I understand that the State is, too.

5 Then I'd like for you to give us some idea
6 of the chronology involved. For example, does the
7 appellate time start to run as of the date that the
8 convictions are made a matter of record, or do you
9 start the day after tomorrow? And I'd like you to
10 comment about whether or not you anticipate that,
11 one way or another -- or give us a date ---

12 MR. FRATIES: All right, sir.

13 SENATOR ZIEGLER: -- by when the whole thing will be
14 completed.

15 MR. FRATIES: Certainly, Senator Ziegler. I cannot speak
16 for the prosecution's willingness to expedite. I
17 certainly can for the defense and for Senator Hohman.

18 As I understand it, ordinarily the -- of course,
19 there is no real conviction until sentencing, and at
20 that time, the time starts to run and I would have
21 thirty days to lodge my appeal.

22 However, in the interest of expedition,
23 were this body to rule that they favored an
24 accelerated process, I would immediately have the
25 research begun to present the appeal, and therefore, you