

ALASKA LEGISLATIVE COMMITTEES HOUSE DOZ 00/2

1998 SRLS HOHMAN MATTER: DOCUMENTS OF RECORD

1 know, I could -- the appeal -- our initial appeal
2 would be ready and ready to file immediately after
3 sentencing.

4 The State's accelerated activity on it -- and
5 they have a lot of adroit young fellows down there
6 and these are fairly clear issues -- I'm sure that they
7 could get their work done in a relatively short time,
8 although I don't wish to bind them to any time -- and
9 then we would reply.

10 My best estimate of the situation is that the
11 whole thing could be accomplished in forty-five days.

12 SENATOR ZIEGLER: From March 9th?

13 MR. FRATIES: Well, let me give that some thought. Today is
14 -- well, presumably, Senator Ziegler, what I would plan
15 to do is start our research immediately, file the
16 brief -- in fact, since we know that the sentencing
17 is going to take place anyway, I think that that is a
18 moot point, and quite possibly we could start the
19 appellate work before the sentencing even takes place.
20 I don't think it would be improper. And I think that
21 I could give, certainly, a date of forty-five days
22 from today, forty-five to sixty days from this date.
23 That's my best guess.

24 SENATOR ZIEGLER: So in terms, Mr. Fraties, of date and month,
25 are you talking about sometime in April?

1 MR. FRATIES: Well, we are almost at February 1st, so I'm
2 talking about using up February and most of March --
3 I'm talking about the end of March or the first of
4 April.

5 SENATOR ZIEGLER: And that is assuming that the prosecution
6 will cooperate with you in terms of getting the thing
7 resolved?

8 MR. FRATIES: And assuming, of course, that the Senate wishes
9 to request the Supreme Court to accelerate the matter,
10 and they wish to do so.

11 SENATOR ZIEGLER: How would we do that, informally, or just
12 a letter to the Chief Justice saying a majority of us - -

13 (End of Tape 5, Side A)

14 (RECESS)

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1 SENATOR KELLY: Will the Rules Committee please come back to
2 order? We had a recess due to a power failure, and the
3 power is back on and we are again recording the meeting
4 electronically. Senator Ziegler had a question that
5 Gail Roy Fraties was answering about the time table of
6 appeal and, Mr. Fraties, if you could finish with that
7 answer.

8 MR. FRATIES: Yes, sir, Mr. Chairman. Senator Ziegler,
9 in my opinion, the appellate process, with the coopera-
10 tion of the Department of Law and if the Supreme Court
11 were to accede to a request by the Senate to hear the
12 matter on an accelerated basis and, as you know, there
13 is precedent for that in other cases where public
14 issues have been involved, I believe that the appeal
15 process could reasonably be completed in sixty days, to
16 my way of thinking, unless there is something that I
17 don't know.

18 The fact that the sentencing is presently set
19 for sometime in March does not impede us from beginning
20 the appellate process immediately, although I'm not
21 required to file a notice of appeal until after
22 sentencing. Since everybody knows that a sentencing
23 is going to take place, and since everybody knows that
24 we intend to appeal, in the interest of expediting the
25 matter, I don't know of any impediment to everybody

1 stipulating and agreeing that the appellate research
2 and process may start immediately. Obviously, the matter
3 would not be presented to the Supreme Court until after
4 the sentencing had taken place anyway. The time con-
5 straints would dictate that.

6 And that being so, I think that I can assure
7 this committee that it is my opinion, at least, and
8 I've had an opportunity in our weather-imposed break
9 here to consult with one of the appellate lawyers that
10 has agreed to work on the brief, it is our opinion that
11 the matter could be completed in sixty days without
12 undue inconvenience or rush anyone. And that is
13 sixty days from this date, Senator Ziegler, or from the
14 date that this committee or the Senate, as a body, makes
15 its decision as to whether or not they will accede to
16 Senator Hohman's request.

17 SENATOR ZIEGLER: You've answered my question, Mr Fraties.

18 Thank you very much, sir.

19 MR. FRATIES: You're welcome, sir.

20 SENATOR KELLY: Are there any other questions? Senator
21 Dankworth.

22 SENATOR DANKWORTH: Mr. Chairman. Gail to follow up on
23 that same line of questioning, would that include a
24 request to circumvent the Appeals Court and go directly?
25 Did you include that in the time table, or are you making

1 the assumption that if we got all the okays from every-
2 body that we would just circumvent the Appeals Court
3 and go directly to the Supreme Court?

4 MR. FRATIES: That's a distinct possibility, Senator
5 Dankworth. I cannot speak for the members of the Appellate
6 Division, nor for the members of the Supreme Court, of
7 course. And as I said before, I was quite happy to
8 answer Senator Kerttulla's questions about our legal
9 concerns because of the fact that they're quite impervious
10 to what I may think or request of them. But the fact
11 remains that if it were necessary, say, in the interest
12 of saving time, to pass directly to the Supreme Court
13 in order to avoid unnecessary delays because, obviously,
14 whichever side did not prevail before the three-man
15 intermediate court would go to the Supreme Court, or
16 want to. There is plenty of precedent for that being
17 done, in my opinion.

18 SENATOR DANKWORTH: Mr. Chairman. To follow up one more
19 thing so that -- I don't believe that you're trying to
20 leave the impression that we would have a decision from
21 the Supreme Court in sixty days. You're talking about
22 the time table to get it to them.

23 MR. FRATIES: I am trying to leave the impression, Senator
24 Dankworth, that you could have a decision from the
25 Supreme Court in sixty days.

1 SENATOR DANKWORTH: In sixty days?

2 MR. FRATIES: In my opinion. I have been involved, as
3 an attorney for the Senate, in one case involving a
4 Public official in which, as I recall, Av Gross and I
5 were before the Supreme Court in thirty to forty-five
6 days. Senator Kerttulla would recall that.

7 SENATOR KERTTULLA: Yes, t's correct.

8 SENATOR KELLY: Senator Dankworth?

9 SENATOR DANKWORTH: A question, and not in that vein.

10 SENATOR KELLY: Yes, sir, go ahead.

11 SENATOR DANKWORTH: There's not very much (indiscernible)
12 in that regard. That clarifies that. Mr. Fraties, do
13 you have in your possession at this time any information
14 or evidence that were used against, that would be valuable
15 for this committee to know, that was not presented to
16 the jury? You've explained your two points that you
17 were going to appeal on technical grounds, but is there
18 something that you think we might ought to know that
19 the jury did not have an opportunity to hear? I'm
20 assuming that your statement yesterday was that you --
21 if I understood you, and don't let me misquote you,
22 because you're very eloquent and can take care of yourself.
23 I just want to make sure that if there is anything that
24 we have an opportunity to hear it.

25 MR. FRATIES: Well, the only thing that the jury was not

1 apprised of, as I informed you Senators yesterday, was
2 the extensive investigation that was made in Canada by
3 the prosecutors and investigators, which turned up a
4 wealth of information that favored Senator Hohman, because
5 they adamantly, in no uncertain terms -- in fact, they
6 were quite angry at the suggestion that Mr. Larson was
7 involved in anything clandestine, and they pointed out
8 many reasons, including the fact that there was no money
9 available for that sort of thing, that he was not
10 authorized to do that sort of thing, he didn't need to
11 do that sort of thing, he was forbidden to do that sort
12 of thing, and ad nauseam.

13 The jury did not get to hear that, simply because
14 we did not have the wherewithal to bring those witnesses
15 before them, and the Department of Law was privileged
16 and, quite properly, objected to that sort of evidence
17 being entered as hearsay, as I would have done and, as
18 I explained yesterday, it's the objective to win your
19 case. And this is the rules of evidence, and I live
20 by the rules of evidence, and so do they.

21 The other thing that I did not realize at the
22 time, and that I also argued to you Senators yesterday,
23 is that if it is true, and I'm not a personal witness
24 to this, but I'm informed that Mr. Hutchinson, who
25 gave testimony regarding Mr. DeMan, and the question was

1 asked extensively as to how could Mr. Meekins, or
2 Representative Meekins, have found out any of these
3 things, except if he had talked to Senator Hohman.
4 Mr. Hutchinson, I am informed, is close, personal
5 friends with one or more of Representative Meekins'
6 aids, and that would have been a conduit of information.
7 It's speculative, but so is the government's case.

8 Those are the things that I know of at this
9 time that I would wish that the jury had heard. But one,
10 they did not hear it about Mr. Hutchinson's friendships
11 because I didn't know about them, for whatever sig-
12 nificance they may have had. The other they did not hear
13 because it is a classic rule of evidence that hearsay
14 may not be introduced in that particular form, conver-
15 sations with these fellows, and I couldn't bring them
16 here.

17 If that's helpful to you, Senator.

18 SENATOR DANKWORTH: Thank you, Mr. Chairman. That's the
19 end of my question.

20 SENATOR KELLY: Are there any other questions? Senator
21 Ferguson.

22 SENATOR FERGUSON: Can you, Senator Hohman, give the
23 committee the dates of the alleged bribe and whether
24 those dates coincide with any political leverage you
25 may have had with Senate Bill 60?

1 SENATOR HOHMAN: Senator Ferguson, Mr. Chairman, earlier
2 I made a presentation and used the chart that lined out
3 those dates and, I think, established how ridiculous
4 the charges and, with the committee's permission, I'll
5 place that chart on one of the easels. (Pause)

6 While we're waiting for the placement of the
7 chart, there was a number of questions asked of Mr.
8 Fraties, and he responded to them quite well. Was this
9 information placed before the jury, or that information?

10 There was a lot of information placed before the
11 jury, and I think we have here in this stack of books,
12 some eleven volumes, the exhibits and the transcripts
13 that were presented at the time of the trial, State
14 versus Hohman, and I'd like to point out also that the
15 jury, the twelve people, who were not trained in law
16 or courtroom procedure, were not allowed to take notes
17 during the presentation of that material. That same
18 jury, I think it's very significant to note, deliberated
19 for approximately one hour, from recall, not from notes,
20 not from a review of the evidence, and that's what they
21 based their decision on, and that's what they determined
22 guilt on. They were supposed to do that only if there
23 was not a reasonable doubt. I think what they did in
24 their decision was come up with unreasonable guilt.

25 Directly, in response to your question, Senator

1 Ferguson, the material that I passed out indicated that
2 there were three significant dates with regard to the
3 alleged bribery, April the 27th, April the 30th, and
4 the period of the alleged bribery, May the 1st through
5 the 7th. Reading from the transcript of the Free
6 Conference Committee hearing on HB-60 that took place
7 in these very chambers, in part, Representative
8 Meekins the speaker, "Before you move on to another
9 category, I've got one more in Natural Resources, this
10 Eight Hundred and Five Thousand Dollars for the purchase
11 of the Canadair CL-215 fire suppression aircraft and
12 the Hundred Thousand Dollars to operate them." That is
13 the language that provided for the purchase of the
14 water bombers, and it was offered by Representative
15 Russ Meekins.

16 Going on with the transcript which, incidentally,
17 is Defense Exhibit "A", and in that stock of documents,
18 Senator Kerttulla asked, "Is it Seven Hundred and Five
19 Thousand Dollars plus a Hundred Thousand Dollars, or
20 Eight Hundred and Five Thousand Dollars plus a Hundred
21 Thousand Dollars?" Representative Meekins responded,
22 "It's Seven Hundred and Five Thousand Dollars plus
23 a Hundred Thousand Dollars, two sections." Representa-
24 tive Meekins' statement. His advocacy of the purchase
25 of these water bombers.

1 At that point, as Chairman of the committee,
 2 I said, "I move and ask unanimous consent for the
 3 adoption of those sections." My notes indicate there
 4 was a silence, and then I went on, "Hearing no objections
 5 so ordered. They are adopted."

6 April the 27th, at Representative Russ Meekins'
 7 suggestion and advocacy, the Committee provided for the
 8 purchase of the water bombers. Unanimous consent was
 9 asked, no one on the committee objected, and the
 10 Chairman ruled that the motion was adopted and that
 11 that appropriation found placement in House Bill 60.

12 The committee was also presented at an earlier
 13 meeting with a memorandum from the chief staff person
 14 on that particular section that indicated that the
 15 committee concurred that we should send the bill to the
 16 printers to be put into final form, so that we could
 17 sign the committee report and submit the bill to our
 18 respective bodies, the House and the Senate, for
 19 approval and adoption prior to the time it would be
 20 sent to the Governor for his signature and introduced
 21 into law. The staff was given authority for technical
 22 changes. That happened on April the 30th.

23 Newspaper reports of a presentation that I made
 24 earlier did carry that very well. The reporter then,
 25 I think, assumed the role of the prosecutor and pointed

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1 out that that didn't have very much meaning because
2 subsequent to that there was further committee action.
3 And there's no question that that's what happened, and
4 it's documented in that same stack of eleven volumes.

5 But Senator Kerttulla was on that committee,
6 and I was on that committee, as were four other people,
7 and I stand to be corrected now by Senator Kerttulla,
8 but when I make this statement, when you move to send
9 something to be drafted into final form, ninety-nine
10 times out of a hundred that's all there is to the bill,
11 and all of the members, in their minds, are content
12 that that concludes final action except for signing
13 the committee report and transmitting.

14 The alleged bribery, according to the official
15 document and the material included, the language from
16 the official document, occurred sometime during this
17 period. The language, from the charge, Count I,
18 Bribery, "That from on or about the first day of May,
19 1980, through on or about the 7th day of May, 1980,
20 at or near Juneau, in the First Judicial District,
21 State of Alaska, George H. Hohmar, Jr. did offer to
22 confer money upon Edward Russell Meekins, Jr., a member
23 of the Alaska State House of Representatives, with the
24 intent to influence Representative Meekins' vote,
25 opinion, judgment, action, discretion, exercise of

1 discretion, in his official capacity as a member of
2 the Alaska State House of Representatives."

3 Count II, Bribery, from the official document,
4 Receiving a Bribe, "That from on or about the first day
5 of May, 1980, through on or about the 8th day of May,
6 1980, at or near Juneau, in the First Judicial District,
7 State of Alaska, George H. Hohman, Jr., did agree to
8 accept money, upon an agreement or understanding that
9 his vote, opinion, judgment, action, decision, and exercise
10 of discretion as a member of the Alaska State Senate
11 would be influenced thereby."

12 Representative Meekins' behavior, George
13 Hohman's behavior, occurred before the fact of the
14 alleged bribery. It occurred back here. It's just
15 impossible, in a temporal sense, for this thing to
16 make sense.

17 My attorney, Mr. Fraties, indicated that nowhere
18 did the prosecution tie George Hohman to any of these
19 phone calls, and the reason was simple; I didn't know
20 anything about any of these phone calls, I did not make
21 any of these phone calls. That I've testified to under
22 oath. And I also testified under oath, and I've stated
23 before this committee, that I'm an innocent man in
24 these charges, that there was never a bribe offered
25 to Russ Meekins, there was never an acceptance on the

1 part of Senator George Hohman to take bribe money.
 2 I have never in my experience of fifteen years plus
 3 of service in the House of Representatives of this
 4 State and in the State Senate heard of anybody being
 5 offered or accepting a bribe.

6 Thank you, Mr. Chairman.

7 SENATOR KELLY: Thank you, Senator. Are there any questions
 8 of Senator Hohman?

9 SENATOR KERTTULLA: I have one.

10 SENATOR KELLY: Senator Kerttulla.

11 SENATOR KERTTULLA: Because George has probably been
 12 refreshed over this long period of time. Senator
 13 Hohman, and you may not remember it, it just occurred
 14 to me in conversation in the statements made, what was
 15 the -- and you may not remember it, because I don't
 16 remember -- what was the night that the -- I reckon it
 17 was about 9:30 at night after a very long day, as I
 18 remember it, we were in pretty strong confrontation
 19 from time to time what night was it, what was the
 20 date (I don't know you know) that the Administration
 21 came down to, the representative, Mr. Reinwand, and his
 22 testimony, as I remember it under a question, was.
 23 "We have no position in the matter of the State's
 24 purchasing these planes. The Governor's office has
 25 no position." That's roughly the words that -- that's the

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1 spirit of the words anyway. And do you remember when
2 that was? I suppose it's a matter of record someplace.
3 I'm just curious.

4 SENATOR HOHMAN: Certainly, Mr. President, it is a matter of
5 record, and it exists in those eleven volumes, and I
6 think that it's a good question and one that should be
7 discussed, along with a lot of other points. That's
8 why I'm very interested in having someone look at those
9 eleven volumes of evidence and see how nonsensical all
10 this relates.

11 But to speak specifically to your question,
12 I think it occurred on about the 7th or the 8th of May,
13 and I have had the opportunity to read some of that
14 material. I can't specifically place that point in
15 time, But we attempted, if I may continue -- we
16 attempted, I know, to get a representative of the
17 Administration before the body to explain why they
18 were advocating for the purchase of the CL-215. They
19 had requested that in a Senate bill, they'd advocated
20 for it throughout the session. It made sense at that
21 time, to me. They're still advocating for the purchase,
22 as I understand it, of the CL-215 because it's the
23 best way that the department, or people in the depart-
24 ment have found to meet the fire suppression needs of
25 this state. And in a recent telephone call, they

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1 confirmed that last year this state spent between
2 Two and a Half Million and Three Million Dollars in
3 aircraft lease for fire suppression purposes.

4 At the point that we were considering this
5 appropriation, we could have purchased two aircraft,
6 although they were used in a two-year demonstration
7 project in this state, for I think it was 4.7 Million
8 Dollars. You're talking about a lot of costs that are
9 associated with this trial; there's one very real cost
10 in the Legislature's hesitancy to purchase these
11 water bombers, and Representatives' effective spiking,
12 killing of the appropriation at that point in time, 1980.

13 SENATOR KERTTULLA: You think it's around the 6th or the
14 7th, or the 5th?

15 SENATOR HOHMAN: I think it's around the 7th or the 8th or
16 the 9th.

17 SENATOR KERTTULLA: Okay.

18 SENATOR HOHMAN: The cost of buying those same two aircraft
19 today, as I understand it, would be about Ten Million
20 Seven Hundred Thousand Dollars.

21 Mr. Chairman?

22 SENATOR KELLY: I was just going to say, for the record,
23 there is testimony that indicates that did happen on
24 the night of the 8th.

25 SENATOR KERTTULLA: Thank you very much.

1 SENATOR HOHMAN: If there are no further questions, I'll
2 take this ---

3 SENATOR KELLY: Are there any further questions of Senator
4 Hohman?

5 SENATOR HOHMAN: Thank you, Mr. Chairman.

6 SENATOR KELLY: That would conclude then the testimony
7 offered by Senator Hohman and his counsel, Gail Roy
8 Fraties, and the Committee will now hear from our
9 legal counsel, William T. Council of Juneau.

10 SENATOR KERTTULLA: Thank you, Mr. Chairman. Members of the
11 Committee. It is my understanding, with apologies,
12 that we could ask any member that was here to respond to
13 a question after Mr. Council's testimony. Is that
14 correct, Mr. Chairman? In other words, I could ask
15 Mr. Fraties or Mr. Hohman or, I suppose, members of
16 this Committee, for that matter.

17 SENATOR KELLY: Certainly, Senator.

18 SENATOR KERTTULLA: Thank you.

19 MR. COUNCIL: Senator Kerttulla, if I might begin with a
20 reference to the record from the jury trial which is
21 now before this committee, I'd answer your question.
22 You might wish to look at Plaintiff's Exhibit "58",
23 page fifty-one. I think that page will reflect that
24 Mr. Reinwand appeared before the Free Conference Com-
25 mittee on the appropriation for the two water bombers on

1 the evening of May 8, 1980, which, as indicated on
2 Senator Hohman's chart, was one day after the conduct
3 which was the factual basis for the jury verdict's
4 finding him to have committed the offenses of bribery.

5 I think it's important to this committee and
6 to persons viewing these proceedings that I state what
7 I perceive to be my responsibilities as special counsel
8 to this committee.

9 I'm expected to marshal the evidence and the
10 testimony that the committee has received during these
11 hearings, and to comment upon the significance of that
12 evidence and testimony.

13 I'm expected to advise the committee on the
14 duties, responsibilities and the powers in determining
15 what action, if any, it should recommend as a result
16 of those jury verdicts.

17 I'm to advise the committee on the standards
18 that the committee must apply to the evidence in
19 deciding whether or not to recommend to the Senate that
20 sanctions be imposed against Senator Hohman.

21 Finally, I must recommend to you, as your
22 counsel, what action you should propose that the Senate
23 at large take.

24 SENATOR KERTTULLA: Counsellor.

25 SENATOR KELLY: Senator Kerttulla.

1 SENATOR KERTTULLA: That is an awesome responsibility.

2 Since we are taking a record, I would like to have a
3 little of your background which gives you credibility
4 in making this decision and making those recommendations.
5 It's probably inappropriate from some points of view,
6 but it may not be inappropriate.

7 MR. COUNCIL: Thank you, Senator. In all sincerity, I don't
8 believe anyone can have the qualifications that would
9 measure up to the responsibility that has been imposed
10 upon me and that has been imposed upon this committee
11 during its deliberations. I have been in the practice of
12 law for some twelve years now. I have been in Alaska
13 for ten, and during that time I have been a prosecuting
14 attorney. I was a District Attorney in the City of
15 Fairbanks. I was the Public Defender, a criminal
16 defense attorney, for two years in the City of Ketchikan.
17 And for five years I was head of the civil litigation
18 department of the Attorney General's office for the
19 State of Alaska. I have been engaged in the private
20 practice of law for the last three years, here in
21 Juneau. I hope that's responsive to your question.

22 SENATOR KERTTULLA: Thank you.

23 MR. COUNCIL: I want to make it clear that I don't believe
24 that I owe my duties and responsibilities just to
25 this committee.

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1 The record before this committee, the evidence
2 and the testimony that has been presented, my statements
3 to you, the statements of Senator Hohman's counsel,
4 will all be part of the record that, if this committee
5 decides to recommend action, will be forwarded to the
6 Senate for its consideration. For that reason, I con-
7 sider the Senate at large to be my client.

8 The final effect of the decision of this
9 committee, and of the Senate, however, will ultimately
10 be borne by the public and, consequently, I believe that
11 my ultimate responsibility is identical to yours, and
12 that responsibility is to the public, to the citizens
13 of the State of Alaska.

14 There's little need to say again that the question
15 before this committee is a very difficult one. It's
16 without precedent in this state. We have no prior
17 committee proceedings, we have no prior legislative
18 proceedings, we have no precedents from the courts of
19 the state to look to for guidance during committee
20 deliberations.

21 Since there are no rules establishing the
22 procedure that this committee is to follow, the committee
23 had to adopt procedural rules. I submit to you that
24 those procedural rules have fully protected Senator
25 Hohman's rights during the course of these proceedings.

1 There are few written standards of conduct for
2 members of the Senate, except for the general standard
3 of conduct to which all citizens are subject; that
4 standard of conduct is the criminal law.

5 There are some standards. You, as members of
6 the Senate, unquestionably have the power under Article
7 XII, section 2 of the Constitution, to expel one of
8 your fellow Senators with the concurrence of two-thirds
9 of the members of the Senate. Based upon the history
10 of the Constitutional Convention which wrote our
11 State Constitution, it is my opinion that you clearly
12 have the power to expel one of your members for a
13 violation of law which bears directly upon his duties
14 as a member of the Senate.

15 Yesterday Senator Hohman's attorney argued
16 that to vote to expel Senator Hohman before he has
17 exhausted all of his rights of appeal in the criminal
18 proceeding would be hasty. That is a very appealing
19 argument, and it is an argument that I believe I can
20 address, and I believe I can make a number of additional
21 very compelling arguments to support.

22 Senator Hohman is in the last year of a
23 four-year term. We are already well into the session.
24 This committee has heard from the governments of the
25 City of Bethel and of Newtok, towns in Senator Hohman's

1 district, urging you to allow Senator Hohman to retain
2 his position in the Senate.

3 The only testimony that I know of before this
4 committee from Senator Hohman's district supports his
5 retention in the Senate. Therefore, based upon that
6 testimony, and based upon the fact that we're already
7 well into this legislative session, why not leave
8 Senator Hohman in to represent the citizens of his
9 district, and let the voters decide in the next
10 election, perhaps after the appeal process in Senator
11 Hohman's criminal proceedings have run, whether Senator
12 Hohman should be returned to this body?

13 Alternatively, if the public wishes to have
14 Senator Hohman expelled, why not leave it up to the
15 public to initiate a recall petition, as the Constitu-
16 tion very clearly allows the public to do?

17 As a final alternative, why shouldn't this
18 committee delay any action until the appeal process in
19 Senator Hohman's criminal proceedings has run its
20 course, in effect letting the court system make the
21 decision?

22 I submit to you that all of these arguments,
23 while they may be persuasive, simply miss the point:
24 this committee, and the Senate, have the constitutional
25 responsibility to decide what action, if any, should be

1 taken. I want to stress, however, that it is within the
2 Senate's power to defer action until the appeal process
3 is run. You have the power, in other words, to do
4 nothing and to wait and see if the recall petition is
5 filed against Senator Hohman.

6 That will not be my recommendation to this
7 committee.

8 Turning now to the evidence and the testimony
9 before this committee, Senator Hohman asked that the
10 court record of his jury trial be placed into the
11 record of these proceedings. That record was prepared
12 and made available on January 24.

13 The committee has also received a summary of
14 evidence prepared by the prosecutor's office from the
15 jury trial which resulted in the verdicts finding
16 Senator Hohman guilty of bribery and receiving a bribe.
17 I submit to you that that document is a fair summary of
18 the evidence presented against Senator Hohman, and that
19 it establishes that there is a factual basis for the
20 jury verdicts finding Senator Hohman guilty of the crimes
21 of bribery and receiving a bribe.

22 Senator Hohman's attorney commented at length on
23 the proceedings at trial during his presentation to
24 this committee yesterday and today. The focus of his
25 comments was on the basic fairness of that jury trial.

1 His comments can be very quickly summarized.
2 He criticized what he characterized as the excessive
3 cost of prosecuting the case. He criticize' the fact
4 that our Constitution provides for a strong executive
5 branch, and he raised the specter of the executive
6 branch, through its prosecutors, perhaps some day
7 subjecting members of this committee to a criminal trial.

8 He criticized the prosecutor. He criticized
9 the Alaska State Troopers, implying that they may have
10 been a bit heavy-handed in their treatment of witnesses.

11 He certainly criticized Representative Meekins,
12 the legislator who testified at the trial that he was
13 offered a bribe by Senator Hohman.

14 He criticized the witnesses that gave testimony
15 establishing the case against Senator Hohman. He
16 criticized the jury, saying that they were overcome by
17 passion and prejudice in reaching their decision.

18 He said the case was a showcase trial, that it
19 was a weak and sensational case, that it was speculative
20 and emotional in the extreme.

21 What was left out of Senator Hohman's
22 attorney's presentation? What did he fail to discuss?
23 The facts.

24 I hesitate to lapse into the use of a legal
25 cliché, but I think it is appropriate in this instance.

1 The presentation of Senator Hohman's attorney to
2 this committee, which was virtually identical to his
3 final argument to the jury, followed an old adage of
4 criminal defense attorneys: when you re before a jury
5 you try the witnesses, try the prosecutor, you try the
6 government, you try anyone but your client, the defendant.

7 There's a single factual argument that has been
8 made to this committee. I think the committee has
9 heard it now, by my count, seven times, and we most
10 recently heard it again today when Senator Hohman used
11 the chart to my immediate left. The argument is as
12 follows:

13 That for the jury to find Senator Hohman guilty
14 of bribing Representative Meekins, the jury had to con-
15 clude that he offered to give money to Representative
16 Meekins with the intent to influence Meekins' vote or
17 action, in Meekins' capacity as a legislator, on the pur-
18 chase of two airplanes.

19 That in order to find Senator Hohman guilty of
20 receiving a bribe, the jury would have to find that
21 Senator Hohman agreed to accept money with the under-
22 standing that his vote or action on the purchase of
23 two airplanes, as a member of the Senate, would be
24 influenced.

25 That Senator Hohman's conduct which the jury

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relied upon in finding him guilty of bribery and receiving a bribe occurred between May 1 and May 7 of 1980.

That the final action and the vote on the purchase of the two airplanes, which was the action to be influenced by the bribes, took place on April 27, days before Senator Hohman's conduct during the period May 1 through May 7, which was the factual basis for the jury verdicts.

Therefore, Senator Hohman argues, the convictions of bribery and receiving a bribe defy logic and constitute a gross injustice.

The argument simply flies in the face of the facts of the case. In fact, the action and vote which the bribes were intended to influence did not take place until May 8 and 9 of 1980, after Senator Hohman's conduct between May 1 and May 7, which was the factual basis for the jury's guilty verdicts against Senator Hohman. The record at trial is absolutely clear on this point.

Part of the trial record, which you have, is the transcript of the Free Conference Committee Proceedings on House Bill 60, recording that final action on the purchase of the two airplanes. That action was taken on May 8 and 9, as I've stated, of 1980. It's in

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1 Volume 3-D of the record of the jury trial.

2 UNIDENTIFIED: Volume what?

3 MR. COUNCIL: 3-D, approximately one hundred seventy pages
4 from the end of that volume. And, specifically, I
5 direct your attention there to the following page of
6 the trial transcript, pages 2571 through 76, page
7 1278, Plaintiff's Exhibit "58" pages 22 through 54,
8 pages 1322 through 1324 and page 1326 of the transcript.

9 SENATOR HOHMAN: Mr. Chairman.

10 SENATOR KELLY: Senator Hohman.

11 SENATOR HOHMAN: May I ask Mr. Council again for his

12 reference? I have Volume 3-D; was that the volume to
13 which you referred, sir?

14 MR. COUNCIL: I have a paper clip, Senator Hohman, on the ---

15 SENATOR HOHMAN: I just need the page, sir.

16 MR. COUNCIL: Unfortunately, these pages are not numbered.

17 I can only indicate to you that it is 21 of Plaintiff's
18 Exhibit "58". It is approximately 170 pages from the
19 back of Volume 3-D of the record from the trial.

20 SENATOR KELLY: Will you continue, Mr. Council?

21 SENATOR HOHMAN: Thank you, Mr. Chairman.

22 MR. COUNCIL: As stated before, instead of discussing the
23 facts, Senator Hohman's attorney has chosen to to
24 attack the executive branch, the prosecutor, the Alaska
25 State Troopers, the witnesses and the jury.

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Why was the jury attacked? The jury, as any criminal defense attorney will tell you, is the single most important protection that the accused has against government excess. Our United States Supreme Court has stated that the criminal justice system is devised so that there is a substantial chance that ninety-nine guilty persons may go free to avoid convicting that one innocent person.

Our court has said that it should be no other way in a free and self-confident society. And the jury is the cornerstone of that system.

What did Senator Hohman's attorney find wrong with the jury in this case? Let me read to you from the record of Senator Hohman's trial how one of the attorneys at that trial described the jury. For the record, I'm reading from page 3527, 3528 and 3877 of the transcript. And this is how one of the attorneys described the jury.

"Now, I think that most of us that have been working in these courts for a good portion of our adult lives have found that a jury is a unique fact-finding entity in that it has twelve sets of senses to study the evidence, and it has twelve life experiences with which to evaluate it. Now, this particular jury, in its composite form,

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1 has many skills. It's an administrator, it's a
2 technician, it's investigative. It has many
3 jobs: banking, homemaking, researching, planning.
4 It has the wisdom of age, it has the idealism
5 of youth, it's seen a lot, it's been around, it's
6 suffered. It's American. It's Alaskan. And it
7 has incorporated in its corporate personality
8 a deeply engrained respect for the individual and
9 for fair play."

10 Reading further from the description of
11 the jury at trial, "Toward this sort of attack
12 (that is, the charges against Senator Hohman)
13 there is only one defense. And that is the
14 American jury system. The American jury system,
15 the greatest scheme ever devised by free men to
16 protect their fellows against the unbridled
17 power of government. It gives you great respon-
18 sibility. It requires total dedication on
19 your part."

20 The attorney that used that language to describe
21 the jury at Senator Hohman's trial was Gail Fraties,
22 Senator Hohman's attorney.

23 Why is it that Mr. Fraties is now saying that
24 this case was speculative and emotional in the extreme?
25 Why is he now saying that the jury was ruled by passion

1 and prejudice in reaching its decision?

2 I submit to you that the answer to that question
3 is self-evident.

4 AL Senator Dankworth pointed out yesterday in a
5 question addressed to Senator Hohman's attorney, the
6 argument to the effect that the jury was swayed by
7 passion and prejudice was made to the judge, and the
8 judge was asked to overturn the jury's verdicts. The
9 argument was based on the short length of time that the
10 jury took in its deliberations. The judge denied the
11 motion.

12 I suggest to you, after you have completed your
13 review of the evidence and the record from the trial,
14 decide for yourselves.

15 Did the fact that the jury deliberated only a
16 few hours indicate that they were swayed by passion and
17 prejudice, or did it indicate that the evidence of
18 Senator Hohman's guilt of the crimes of bribery and
19 receiving a bribe was very strong evidence, and that
20 the jurors, all twelve of them, were convinced of his
21 guilt beyond a reasonable doubt?

22 Remember, if only one of those jurors felt
23 otherwise, the jury could not have found Senator Hohman
24 guilty.

25 When Senator Hohman was installed in his position

1 of public trust, he swore an oath, an oath required by
2 the Alaska Constitution, to "faithfully discharge his
3 duties as Senator to the best of his ability".

4 Senator Hohman, as does any Senator, has two pre-
5 eminent duties, the duty faithfully to protect the
6 interests of his constituency and the interests of the
7 public at large, and the duty to preserve the integrity
8 of the Senate and the public's trust in that body.

9 Without question, accepting money in exchange
10 for his vote, and offering money to another legislator
11 to influence that vote, strikes at the very heart of
12 his duties to the public and to the Senate.

13 Based upon Senator Hohman's offenses, the Senate
14 may impose the ultimate sanction of expulsion.

15 The Alaska Constitution provides that each
16 house of the Legislature "may expel a member with the
17 concurrence of two-thirds of its members". The United
18 States Constitution has a similar provision.

19 It has long been established, under the United
20 States Constitution, that "the right to expel extends
21 to all cases where the offense is such as, in the
22 judgment of the Senate, is inconsistent with the trust
23 and duty of a member".

24 It is submitted that the courts of this state
25 will uphold the Senate's power to expel, particularly

1 when the offense, as in this case, so directly violates
2 a Senator's sworn promise to honor and uphold his duties
3 to the public and to the Senate. It's clear that the
4 framers of the Alaska Constitution of this state
5 intended that result.

6 Senator Hohman has argued that this committee's
7 action is precipitous, and that no action should be
8 taken until he has exhausted all of his appeal rights
9 challenging the jury verdicts. That argument confuses
10 the different roles of the court and the Senate, and the
11 rights that this committee and the Senate are bound to
12 protect.

13 The trial court and jury protected Senator
14 Hohman's rights during the trial. The appellate courts
15 will continue to protect his rights during the appeal.

16 He was tried and found guilty of bribery by a
17 jury of his peers. Based upon the evidence presented,
18 the jury found him guilty beyond a reasonable doubt,
19 the highest standard of proof.

20 Senator Hohman was represented at trial by his
21 attorneys. He had a full opportunity to present evidence
22 in his behalf and to confront and cross-examine
23 witnesses against him. The appellate courts will make
24 certain that Senator Hohman's right to a fair trial,
25 and his right to be judged by a jury, unswayed by passion

1 or prejudice, are protected.

2 The committee has also been mindful of Senator
3 Hohman's rights. As the chairman of this committee
4 has stated, Senator Hohman must be given adequate notice
5 of all proceedings, he must be given an opportunity
6 to be heard, the right to be represented by counsel,
7 he must be allowed to present evidence on his own
8 behalf, and to cross-examine witnesses against him.
9 He has been given these rights.

10 Additionally, before voting to recommend or to
11 impose any sanction, the committee and the Senate must
12 ascertain that there is a "rational evidentiary basis"
13 for the action, the sanction imposed.

14 But there are rights other than Senator Hohman's
15 that must be safeguarded, rights that are not at issue
16 and, therefore, will not be protected in the court pro-
17 ceedings on the bribery charges against Senator Hohman.
18 Those rights are at issue only before the Senate and
19 this committee, and this committee and the Senate are
20 bound to protect those rights.

21 They are the rights of the public to be pro-
22 tected from lawmakers who would act purely upon selfish
23 motives and contrary to the public interest, and the
24 right of the public to have high public offices filled
25 by persons who will not violate the public trust, and

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the right of the Senate to preserve its integrity.

In terms of population, Alaska is a very small state. Unlike the citizens of more populated states, we must take personal responsibility every day for the decisions that we make. And should you vote for the recommendation of expulsion, you won't be able to escape from the impact that your vote will have on the life of Senator Hohman and his family. You will have to live with that decision for the rest of your lives.

I'm certain that none of you, when you ran for high public office, expected that with that office would come the duty to make the decision that you must soon make in this matter. I'm certain that it is far more difficult for you, who know Senator Hohman personally, than for the jury, who did not know him, except for the evidence that they heard in the carefully controlled setting of the courtroom.

But the courtroom, as a forum for a jury trial in a criminal proceeding, is carefully controlled for one preeminent purpose, and that is to protect the rights of the accused.

Based upon the evidence presented at trial and, alternatively, based upon the jury's verdicts finding Senator Hohman guilty of bribery, and receiving a bribe, it is my recommendation that the committee find that

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1 Senator Hohman has committed acts which constitute a
2 breach of his oath of office, render him unfit to
3 represent the public interest, or to serve in the
4 Senate, and violate the public trust and duties of a
5 Senator.

6 It is my further recommendation that this committee
7 propose a resolution for the expulsion of Senator Hohman.

8 SENATOR KELLY: Thank you, Mr. Council. The Rules Committee
9 will take a five-minute recess, at which time members
10 of the committee may question Mr. Council.

11 (RECESS)

12 SENATOR KELLY: I call the Rules Committee meeting back to
13 order. Let the record show that William T. Council's
14 report will be entered onto the record. There will be
15 copies available immediately. Are there any questions
16 from the committee members?

17 SENATOR FERGUSON: I have one ---

18 SENATOR KELLY: Senator Ferguson.

19 SENATOR FERGUSON: Mr. Chairman, and that would be whether
20 you would allow for a rebuttal in this case.

21 SENATOR KELLY: Yes, the Chair will allow Senator Hohman
22 and Gail Roy Fratley to speak at this time. Senator.

23 SENATOR DANKWORTH: Mr. Chairman.

24 SENATOR KELLY: Senator Dankworth.

25 SENATOR DANKWORTH: Probably, and I don't know, I don't think

1 that would occur anyway, but I don't see any problem
2 with the rebuttals as long as we don't get our attorneys
3 in debates here. I think, if I understand your motion,
4 it's just that he can respond to his questioning.

5 SENATOR FERGUSON: Yeah, that was the question.

6 SENATOR DANKWORTH: Thank you.

7 SENATOR KELLY: Senator Hohman, you have the floor, sir.

8 SENATOR HOHMAN: Thank you, Mr. Chairman. I think I'd like
9 to defer to Mr. Fraties at this point, reserving the
10 right to make comment later.

11 SENATOR KELLY: Mr. Fraties.

12 MR. FRATIES: Thank you, Mr. Chairman. I think that I can
13 allay the fears that this will be an acrimonious attack
14 on my colleague. We're all professionals in the trial
15 courts, and I think that I could add to the list of
16 standard tactics that my friend has expressed. But it
17 isn't at all uncommon for the prosecutor to attack a
18 defense counsel, in the spirit of give and take, and
19 I take it as a compliment that my remarks to the grand
20 jury, rather to the jury, were read into the record,
21 because that is the way that I expect a jury to respond,
22 and this one did not, which disappoints me. But that
23 is exactly what I expect a jury to be, to be a defense
24 of a person, and to be critical.

25 Your counsel has alleged that I've criticized

1 everybody in an effort to get you not to look at the
2 facts, and yet I'm the one that has been urging that
3 somebody be delegated to review the facts. I don't wish
4 to be rude in any way, but I think that your advisor
5 has been presented with an almost insurmountable problem,
6 if he has had to review thirty-six hundred pages of
7 transcript and several hundred items of evidence, and
8 write his speech and come here to advise you. And if
9 he has managed to accomplish all of that work in six
10 days, then I have to say that it's a remarkable achieve-
11 ment and I commend him on it.

12 If, on the other hand, he has been unable to
13 review all of that material before he assured you that
14 the factual basis for the conviction was there, then I
15 would say that that is just supposition, that it is not
16 borne out by the facts which are in fact. I was present
17 at the trial, which he was not, and these documents here
18 are what I have urged you to refer to, the transcript
19 of everything that took place.

20 I may have offended by friend when I suggested
21 that he had a conflict of interest, but that was a pro-
22 fessional observation. It was not meant as an attack
23 on him. I am relatively certain that he didn't read
24 my final argument, because it is not virtually identical
25 to what I told you here today. It was a very complete

1 description, a very complete summation, or at least I
2 thought at the time it was, and I've further read it,
3 and I still think so, a very complete critique of the
4 State's case.

5 I have been characterized as having attacked
6 the Constitution of the State of Alaska, because we
7 enjoy a strong executive system, the prosecutor, the
8 court system and the American way, I suppose, and I
9 don't take that personally.

10 But I will concede here, in the light of the
11 publicity that surrounds this trial, that I'm a very,
12 very critical person. That's quite true. I'm critical
13 of juries that don't do their work, I'm critical of
14 prosecutors that take a weak case and build it up into
15 a sensational case, and I'm critical of convictions that
16 are achieved without sufficient evidentiary background.
17 And I have a number of my very esteemed colleagues,
18 including my friend at the other end of the table,
19 that have professionally been just as critical as I
have of trials, and will continue to be so.

21 I share that distinction with the immortal
22 Harry Truman, who said on one occasion, as I recall it,
23 that people were always saying that he gave people hell,
24 but he didn't give people hell, he just told them the
25 truth and they thought it was hell. And I've just told

1 you the truth. If my esteemed colleague feels that I --
2 if he feels it's hell, well, welcome to hell, because
3 that's where I've spent the majority of my adult life,
4 on the dark side of the street, fighting governments.

5 Now, I would wish to correct a misconception,
6 and I'm sure it's only a misconception, perhaps by the
7 haste of having to review thirty-six hundred pages
8 of testimony in such a short time; but it is incorrect
9 that the activity engaged in by Senator Hohman from
10 May 1 to 7 was to achieve the result that would have,
11 somehow or another, occurred on May 8. Senator
12 Kerttulla was present, and he is aware of the fact
13 that what was happening on May 8 was that Representative
14 Meekins, somehow alarmed by what he perceived to be the
15 activities of May 1 through 7, was at that point
16 attempting to withdraw the appropriation.

17 How it can be conceived that all of this hard
18 work and bribery by my client was meant to achieve that
19 purpose, I do not know. But the record, again, speaks
20 for itself.

21 I would comment very briefly on the fact that
22 the court has denied the motion that I made is literally
23 meaningless for the purpose of this body for the following
24 reasons:

25 The court, quite properly, adopted the standard

1 that it always must adopt in that juncture, and I
2 believe this can be explained to you, if it is necessary,
3 by my colleague that is a member of your body. A court,
4 when it's presented with a motion of that sort, to
5 set aside a verdict and grant a new trial,
6 necessarily judges the evidence in the most favorable
7 light to the State and against the proponent, and only
8 then if he cannot find that reasonable people could
9 possibly come to the conclusion that they did, judging
10 the evidence in the light most favorable to the State.
11 That's the only time he can grant that sort of motion.

12 I know that opposing counsel did not wish to
13 mislead you, but I thought that that would be necessary
14 to clarify.

15 I urged the jury to be fair and to consider the
16 evidence and, in my opinion, they did not do so. That
17 is not a critique of any individual, it's not a criticism
18 of the system. That's the truth and if it sounds like
19 hell, as Harry Truman said, well, I still stand beside it.

20 To alleviate any concern that Senator Dankworth,
21 my former colleague from law enforcement days, might
22 have about my conduct in the trial, tactically, I never
23 attack a policeman or anybody else in a trial. I never
24 attack the police, any more than I attack prosecutors
25 or anything else. Juries don't like it.

1 In this particular case, there was an amusing
2 aside between Investigator Christie and myself when he
3 became exasperated with some line of questioning and
4 accused me of thinking that he was a great big, tough
5 cop with a crewcut. And I told him I didn't feel that
6 way about him at all. This is true, he's a friend of
7 mine. My father was an FBI agent. I'm immensely
8 proud of that. I do not attack the police, I do not
9 attack the system.

10 I attack this case against my client, and I
11 continue to do so. I believe in the defense case.
12 I'm sorry that the jury did not take the time to consider
13 it.

14 You do have an option open to you that will cost
15 you very little time and will be entirely consistent
16 with not only the sanctity of the Senate, but with the
17 procedural fairness and rights of my client, as well
18 as avoiding any embarrassment that might occur by a
19 reversal of his case after the Senate, from my view,
20 if it did decide to expel or had acted precipitously.
21 There is a precedent to be set here. This is your
22 colleague.

23 And I thank you for your courtesy.

24 SENATOR KELLY: Senator Hohman.

25 SENATOR HOHMAN: Thank you, Mr. Chairman. A question first,

1 did I understand that the legal counsel to the committee
2 proposes that an expulsion resolution be developed by
3 the committee and submitted to the body?

4 SENATOR KELLY: That's correct, Senator Hohman.

5 SENATOR HOHMAN: Mr. Chairman, as part of the work of legal
6 counsel to the committee, he did supply us with a
7 document that was in response to his request to the
8 Department of Law, entitled "Summary of Evidence
9 Presented in the Trial of the State vs. Hohman".

10 I'm not an attorney, and I suffered through
11 about three weeks of trial and experience, and felt
12 frustrated because I'm not licensed to practice law,
13 I have no legal training, and I felt I could not express
14 opinions, I could not participate. But I was ably
15 represented by two qualified, very well respected
16 attorneys, and I'm content with that, I suppose.

17 But this is a legislative hearing, and I'd
18 like to ask some, indulge in some of the committee,
19 and some latitude as I try to establish something that
20 I think is very important here. So, if I may continue.

21 The document that was presented by legal counsel
22 to the committee, in the second paragraph, page one,
23 it says that "The evidence before the Grand Jury
24 established," again reiterating, I'm a layman. I don't
25 understand legal proceedings. But I would submit that

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1 it might have been the interpretation by some that
2 evidence established certain facts, but I don't think
3 that a Grand Jury establishes anything this way. I
4 think what this is, in its presentation to the committee,
5 is a bias. I feel strongly that it's a bias, and I
6 think that there are other evidences of biases that have
7 been involved in this proceeding, not this committee
8 proceeding, ut the larger proceeding, the Grand Jury,
9 for instance.

10 We have on record in Volume i, Hohman court case
11 file, a statement in a deposition taken. The person
12 stated, "I am on the Hohman Grand Jury. We're going
13 to get that son-of-a-bitch this time." I don't think
14 that justice can result from a panel that has membership
15 with that type of an attitude.

16 I think there was another Grand Juror who stated,
17 and I'm going to quote again from the works, this isn't
18 from the records here, this isn't a verbatim statement
19 by the individual, but it's verbatim from the document
20 here. "This Grand Juror (and I leave the name blank) stated
21 that where he worked everyone hated Senator Hohman and
22 idolized Russ Meekins. Therefore, he could not set
23 aside his bias. It should be noted that (again the
24 mention of the name) this gentleman came forward on
25 July 16, 1980." That's after the Grand Jury had been

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in session for three months.

There's still another, third person, whose bias can be documented, that prior to the forming of the Grand Jury this individual stated that somehow, sometime, someplace, the person was going to get George Hohman.

There are three people with documentable biases on the Grand Jury, and I don't know how many others there were, nor do I know how many people were influenced among the membership of that Grand Jury by the biases of these three individuals.

At some point, you know -- this is like being in a nightmare -- at some point a person has to awake and find that the sky is blue and that there is sunshine somewhere and that it doesn't always rain. The reason that I'm here, and the reason that I haven't resigned -- if I'd been guilty of these charges, I would have quietly packed up my bags during the interim between Christmas Eve and the time that the session started, and would have gone home, and the only evidence of George Hohman in the State Capitol would have been a letter on the desk of the President, which would have contained my resignation.

Sometime this nightmare has to be over, and the innocence of one Senator George Hohman will be

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1 confirmed, hopefully.

2 I don't know about the propriety of this, but
3 I've already illustrated bias, bias, bias, bias, bias
4 in this instance. As my attorney has indicated that
5 the expenditure of such a huge amount of the State's
6 cash resource, over such a long period of time, I
7 think indicates a bias.

8 And we interviewed, during the voir dire,
9 if that's the correct pronunciation of the period of
10 time when you consider the qualifications of the juror,
11 prospective juror, and whether or not they can perform
12 their duties as a juror without bias, an individual.
13 I'd like to read from that record.

14 "And you are presently self-employed, is
15 that right?"

16 "I stay at home with my two children."

17 "And your husband? You're an attorney;
18 's that correct?"

19 "That's correct."

20 "And your husband is Bill Council, who is
21 also an attorney?"

22 "That's correct."

23 "And as I recall, Mr. Council is in practice
24 with Mr. Carpeneti; is that right?"

25 "That's correct."

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"All right. Now, based on the information that you've obtained about this case and the related cases, either from the press sources or from conversations with friends or family members, have you formed any opinion, or do you have any impression as to the guilt or innocence of the defendant in this case?"

And the answer is: "I have a lot of impressions, and I have formed some opinions, and I feel it would be impossible for me to impartially weigh the evidence presented in this trial."

The next question: "Okay, can you tell us what your opinions are, your" and here is one of the omissions in the transcript.

We don't know what the question was, nor the response. But the prospective juror does clearly indicate a bias, and I think that's very fair. And I'm sorry, but I think that Mr. Council enters this situation with a bias. I think the presentation that we have here, I think that Mr. Council's behavior today reveals that he is an adjunct to the prosecutory alarm.

Sometime this nightmare has to be over, and at some time the purpose of justice has to be served and sometime my innocence of these charges has to be confirmed.

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Thank you, Mr. Chairman.

SENATOR KELLY: Are there any other questions or comments from the members of the committee?

UNIDENTIFIED: No, sir.

SENATOR KELLY: The Rules Committee is recessed until 9:00 a.m. Monday morning, February 1st, in the Butrovich Room.

(Whereupon the Rules Committee meeting was adjourned.)

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1 SENATE RULES COMMITTEE

2 ALASKA STATE LEGISLATURE

3
4 Twelfth Legislature - Second Session

5 February 1, 1982

6
7 SENATOR TIM KELLY, Chairman

8 SENATOR M. E. DANKWORTH, Vice-Chairman

9 SENATOR FRANK R. FERGUSON, Member

10 SENATOR JALMAR KERTTULA, Member

11 SENATOR ROBERT H. ZIEGLER, SR., Member

12 Also in attendance:

13 SENATOR GEORGE H. HOHMAN, JR.

14 WILLIAM T. COUNCIL, Counsel for Senate Rules Committee

15
16 * * *17 SENATOR KELLY: Let it be shown that Senators Kerttula,
18 Dankworth, Ziegler and Kelly are present for a quorum.
19 On Saturday, the Committee heard testimony from
20 Senator Hohman, his attorney Gail Roy Fraties, and
21 the recommendation of the Committee's special counsel,
22 William T. Council.23 It is my understanding that Senator Fischer and Sena-
24 tor Ray would like to address the Rules Committee t day.
25

1 Senator Fischer, you have the floor, sir.

2 SENATOR KERTTULA: Senator Ferguson, if I might -- where is
3 Senator Ferguson?

4 SENATOR KELLY. We have called Senator Ferguson's office.

5 He is aware of the meeting, sir. He'll be up here when
6 it is his pleasure. Senator Fischer.

7 SENATOR FISCHER: Mr. Chairman. I very much appreciate
8 the opportunity to meet with the Committee.

9 On Saturday, in listening to the Committee
10 proceedings, I heard Mr. William Council say that he is
11 attorney not just for the Committee but also for the
12 entire Senate and for the people of Alaska, and I
13 appreciate, as one of the members of the Senate, having
14 the opportunity to ask some questions of Mr. Council.

15 If I may, Mr. Chairman ---

16 SENATOR KELLY: Senator Fischer.

17 SENATOR FISCHER: These are questions addressed to counsel.

18 Mr. Council has mentioned that there are two ways that
19 we can look at the case before us, before the Committee.
20 One is to make an independent review, to look at the
21 evidence that has been compiled in the Hohman case. And,
22 secondly, to accept the jury verdict.

23 My question is, are we in a position of only
24 accepting trial evidence and the the jury verdict, or
25 can we consider facts and the issues that lie outside

1 the bribery trial itself? And I ask this because a lot
2 of the public response as expressed in messages to me
3 and others calling for Senator Hohman's ouster have
4 also dealt with such issues as trip of students to
5 England, use of authority in issuing contracts, abuse
6 of travel requests and authorizations, a disproportionate
7 amount of money going to the Bethel district as against
8 other parts of Alaska and so on.

9 And what I am wondering, to what extent can we
10 take into account other issues than the bribery trial
11 itself in any proceeding having to do with Senator
12 Hohman's expulsion?

13 SENATOR KELLY: Mr. Council?

14 MR. COUNCIL: Thank you, Mr. Chairman. Senator Fischer,
15 I have advised the Committee that there are basically
16 two questions before it. Those questions are: Did
17 Senator Hohman engage in any conduct which would make
18 him subject to disciplinary action by this Committee,
19 by the Senate-at-large? The second question is, if the
20 answer to the first question is "yes", that is that he
21 has engaged in conduct lends him to the possibility
22 of disciplinary action, then what should that disciplinary
23 action be?

24 In turning to your question, this Committee and
25 the Senate certainly could look at matters outside of

1 the record of the jury trial in Senator Hohman's case.
2 That question was addressed at some length by the
3 Committee in its first meeting on January 19. Senator
4 Hohman's views were solicited at that time. The decision
5 was made by the Committee that as to the first issue,
6 that is is there conduct based upon which disciplinary
7 action might be recommended by this Committee, this
8 Committee would limit itself to the record of the
9 trial, including the verdicts of guilty returned by the
10 jury, including testimony that was offered by the
11 witnesses at that trial. But certainly this Committee
12 and the Senate could have chosen to look outside of the
13 record on that first issue.

14 I believe that we have, as of this stage of the
15 proceedings, given full opportunity for everyone who
16 wished to appear before this Committee to do so and to
17 present evidence that they thought was relevant to the
18 decision that this Committee must make.

19 I think that we've heard at great length from
20 Senator Hohman on this. I believe his attorney, and
21 Senator Hohman himself, indicated on Saturday that they
22 had put before this Committee everything they wished to
23 present on the question before the Committee.

24 The record of this proceeding will be passed on
25 to the Senate-at-large, if a recommendation is made, for

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1 action by this Committee, and the Senate is free to do
2 with that record what it wishes to do in addressing any
3 question respecting disciplinary action against Senator
4 Hohman.

5 SENATOR FISCHER: Thank you. Mr. Chairman, if I may follow
6 up on that. That is, of course, why I'm asking the
7 question of what would properly be before the Senate
8 if a resolution comes before us and what, aside from
9 the trial itself, can be considered.

10 For instance, if the Senate determines that Mr.
11 Hohman remaining in the Senate undermines public confidence
12 in the State Legislature, would that, in and of itself,
13 be sufficient grounds, would that be constitutional
14 cause for exclusion from the Senate? This is, again,
15 something that has been brought up and, in particular,
16 if the courts were to set aside the jury verdict, could
17 the Senate still decide that Senator Hohman remaining
18 in the Legislature and the Senate would undermine
19 public confidence and therefore expel him?

20 MR. COUNCIL: Well, if I understand your question, Senator
21 Fischer, I won't go over again the statement that I made
22 to this body on Saturday. I think the simplest answer
23 to your question is that the integrity of the Senate
24 is a recognized factor, recognized by the courts in other
25 States, recognized by the United States Supreme Court,

1 a recognized factor that the Senate may and, in my
2 opinion, should consider in determining what action, if
3 any, should be taken.

4 SENATOR FISCHER: My question goes even slightly beyond
5 that. Rather than being an ancillary issue, could public
6 confidence be a cause in and of itself?

7 MR. COUNCIL: The answer is yes, in my opinion, Senator.

8 SENATOR FISCHER: Okay. The other question, one in which
9 I have tried to get a written opinion through the Chair
10 from the Attorney General, and I've talked to you about
11 it, Mr. Council, is exactly when does a person become
12 a convicted felon?

13 Again, a lot of my constituents have responded
14 that a convicted felon should not be in the Senate.
15 And then I've heard verbal statements that Senator
16 Hohman is not a convicted felon. Could you, sort of
17 for the record, state whether or not Senator Hohman is
18 now a convicted felon? If he is not now, when would
19 he be?

20 MR. COUNCIL: There's a tremendous body of law on the ques-
21 tion, Senator Fischer, and the answer has to do with
22 the context in which the question is asked. Certainly,
23 for purposes of Senator Hohman pursuing his appeal in
24 the criminal proceedings, he is not convicted. He will
25 not be convicted, according to the rules of the court.

1 system, until the sentence is entered against him, until
2 a written judgment of conviction is prepared and signed
3 by the judge after Senator Hohman's attorneys have had
4 an opportunity to review that.

5 What that means in practical effect, in this
6 situation, is that there will be no actual judgment
7 of conviction until around March 10th of this year.
8 I understand that sentencing is presently scheduled for
9 March 5. If the usual procedure is followed, it will be
10 approximately five days after that before there is an
11 actual judgment of conviction.

12 So, for purposes of exercising his appeal rights,
13 he is not convicted of the charges against him. We have
14 jury verdicts at this time, finding him guilty, but we
15 have no judgment of conviction entered by the court.

16 For purposes of -- I don't mean to lapse into
17 a dissertation on the law in this proceeding. I think
18 it is way beyond the scope of the proceedings today,
19 but in terms of impeaching the witness at a criminal
20 trial, if the rules of a particular court allow impeach-
21 ment based upon a conviction for a felony, then the jury
22 verdict is sufficient. Conviction in that context means
23 the jury verdict.

24 For terms of disciplining attorneys, conviction
25 means a jury verdict. For disciplining judges, conviction

1 means a jury verdict.

2 There is authority from virtually every state
3 in this union except, unfortunately, the State of Alaska.
4 As we've stated before, this matter is without precedent.

5 For purposes of disciplining a person holding a
6 high public office, there is authority for both proposi-
7 tions -- that is, the verdict constitutes the conviction
8 for purposes of initiating disciplinary proceedings;
9 or the final judgment of conviction by the trial court
10 constitutes that conviction for purposes of instituting
11 proceedings.

12 I've stated my opinion of the law on Saturday.
13 It's my opinion that whether or not Senator Hohman has
14 at this stage been formally found convicted by the trial
15 court is not directly relevant to the question before
16 this Committee.

17 SENATOR FISCHER: Thank you. Mr. Chairman, two more questions
18 One quick one.

19 SENATOR KELLY: Could I interrupt for just a minute here?
20 I would ask that members of the Senate staff, as other
21 legislators come into the room, please give up your
22 seats and allow the other members of the Senate and the
23 House to sit down. Thank you.

24 SENATOR FISCHER: Mr. Chairman, I have one quick question.
25 Does Section 7, of Article 1, provision on due process

1 stating the right of all persons to a fair and just
2 treatment in the course of legislative and executive
3 investigations shall not be infringed, does that
4 section apply to expelling a member of the Legislature
5 under Article 2, Section 12?

6 MR. COUNCIL: I haven't addressed that question, Senator.

7 I will state that unquestionably Senator Hohman has
8 substantial due process rights in the proceedings before
9 this Committee and in the Senate's deliberations on
10 the questions that are now before this Committee, if
11 those questions actually reach the Senate-at-large.

12 As I pointed out in the report, as I pointed out
13 in my statement to this Committee on Saturday, he has
14 -- that is, Senator Hohman has what are called procedural
15 due process rights. That is, he must be given notice
16 of all hearings, the opportunity to be heard, the right
17 to be represented by counsel, the right to present
18 evidence on his own behalf, the right personally to
19 address this Committee, the right to cross examine
20 witnesses against him.

21 He also has what has been called by some courts
22 the right of substantive due process. That is, there must
23 be a rational, factual basis; a rational, factual connec-
24 tion between his conduct and any discipline that is to be
25 imposed by the Senate.

1 There have been at least two more or less
2 recent United States Supreme Court decisions on that
3 subject, Powell v. McCormick and Bond v. Floyd. As I
4 indicated on Saturday, it is my opinion that Senator
5 Hohman received all due process rights to which he is
6 entitled in the hearings before this Committee.

7 SENATOR FISCHER: My question was in part motivated by concern
8 by many citizens that the Senate has moved very slowly
9 in this case. And I would gather, from your response,
10 that due process is the reason why we are here today
11 and no action has been taken sooner.

12 MR. COUNCIL: That's certainly part of the reason the
13 proceedings have gone according to schedule up to this
14 point.

15 SENATOR FISCHER: Mr. Chairman, one last question of Mr.
16 Council which is mostly toward some clarification.

17 We, on several occasions, have been presented
18 with a view of sequences that occurred in the case here
19 where the Free Conference Committee met and considered
20 the inclusion of a budget item for acquisition of
21 airplanes. It was included. The Free Conference
22 Committee report went to the printers and subsequent to
23 that, during the period of May 1-May 7, the indictment
24 states that Senator Hohman was offered a bribe and
25 offered one to Senator Meekins.

1 And then Mr. Council pointed out that subsequently
2 the Free Conference Committee budget was re-opened and
3 a change was made in this particular item.

4 Mr. Chairman, I've been going through these
5 thousands of pages of testimony, and the thing that I
6 would like to have clearly stated is what motive has been
7 ascribed to Senator Hohman for offering a bribe to
8 Representative Meekins after the item was included in
9 the budget, even if it was a tentative budget, but it
10 was unanimously included. What was the purpose, the
11 supposed purpose, of offering a bribe to Representative
12 Meekins at that time?

13 MR. COUNCIL: Senator, first the record from the trial
14 indicates that there was no question but that final action
15 on the proposed appropriation for the purchase of two
16 airplanes did not take place until May 8 and 9 of 1980,
17 and looking now at the citations to the record of
18 the trial, I'll state those again for the record, they
19 are pages 2,571 through 76, and page 2,278 of the trial
20 transcript; plaintiff's exhibit "58", pages twenty-two
21 through fifty-four; and additional pages of the trial
22 transcript 1,322 through 24 and 1,326. So, I submit
23 that the record of trial is very clear that final action
24 did not take place on that particular appropriation,
25 the purchase of two airplanes, until May 8 or 9.

1 The motive that has been ascribed is simply
2 to influence the vote on including or not including
3 that particular appropriation.

4 It is correct that as of April 27, the appropri-
5 ation was in the bill. Subsequent to that, efforts were
6 made to bring before the Free Conference Committee
7 different language. And, in fact, that different
8 language was brought before the Committee, and, ultimately
9 on May 9, the line item reflecting an appropriation for
10 the purchase of two airplanes was taken out of that
11 bill, that is House Bill 60.

12 So, very simply, the motive that was ascribed by
13 the prosecution to Senator Hohman was to influence the
14 inclusion of the particular item in the appropriations
15 bill.

16 SENATOR FISCHER: Was it specifically to prevent its
17 exclusion since it was already in? That's what I'm trying
18 to find out.

19 MR. COUNCIL: I beg your pardon? I'm not sure I understand
20 your question.

21 SENATOR FISCHER: The item was already in.

22 MR. COUNCIL: That's correct. The motive ascribed, Senator,
23 if I understand the question, was to keep it in House
24 Bill 60.

25 SENATOR FISCHER: Thank you, Mr. Chairman.

1 SENATOR KELLY: Senator Fischer, thank you. Senator Ray,
2 you have some questions?

3 SENATOR RAY: Thank you, Mr. Chairman. Members of the
4 Committee. I was not present on Friday or Saturday, but
5 I did have the opportunity to listen to the television
6 presentation. And I listened twice yesterday. The
7 first time that I listened, I felt myself becoming
8 insensed at certain activities, and then I thought that
9 perhaps I was over reacting. With the opportunity
10 to look again the second time, it confirmed what my
11 beliefs were and, as such, I feel it is almost mandatory
12 that I at least express my thoughts on the matter.

13 With permission of the Chairman, I would like
14 to ask Mr. Council a question, a series of questions.

15 SENATOR KELLY: Senator Ray.

16 SENATOR RAY: Mr. Council, is it true that you were in the
17 partnership, law partnership with Mr. Carpeneti at the
18 time he represented Mr. Meekins?

19 MR. COUNCIL: That's true, Senator, and I brought that out
20 to the Committee, and it was brought out by Senator
21 Hohman's attorney Gail Frattos during the course of these
22 proceedings.

23 SENATOR RAY: I find nothing objectionable with that, sir.
24 When you took this position with the Senate Rules
25 Committee, were you given instructions?

1 MR. COUNCIL: I was given instructions, yes, Senator.

2 SENATOR RAY: Specific instructions or far reaching or
3 just ---

4 MR. COUNCIL: I think it is fair to characterize the
5 instructions as not being specific instructions. As
6 I think has been indicated many times before, this matter
7 is in this State without precedent. We must look to
8 other states and to the United States Congress to
9 determine the proceedings to be followed, the law to be
10 applied, the role to be played by special counsel to
11 the Committee in this instance.

12 So, the answer to the question was I was not
13 given specific instructions in terms of exactly what I
14 was to do, what role I was to play with this Committee.

15 SENATOR RAY: Mr. Council, when I listened to you yesterday,
16 I took a great deal of pride in your performance, your
17 execution of your duties. I thought that you were
18 impassioned -- you had nothing but a cold, logical
19 approach to the problem at hand. And, as I sat there
20 the first time and listened to that, I was quite proud
21 to think that I was associated at least in a far-ranging
22 manner with the Senate and with you as you were making
23 the presentation -- until you got to the point where you
24 made a specific recommendation.

25 Were you instructed by this Committee to give

1 any specific recommendations, Mr. Council?

2 MR. COUNCIL: No, Senator, I was not. I hope that I made
3 clear, I certainly intended to make clear during my
4 comments on Saturday that it was my recommendation.
5 I personally take responsibility for it. This Committee
6 has the burden of making the decision. I was expressing
7 my opinion. I certainly was not presuming to speak for
8 this Committee or for any Senator or for the Senate
9 itself.

10 SENATOR RAY: Were you trying to influence this Committee,
11 Mr. Council?

12 MR. COUNCIL: To the extent that my opinion may have some
13 influence on the Committee, yes, I was trying to
14 influence this Committee.

15 SENATOR RAY: I find that objectionable, Mr. Council, because
16 I don't think that there was anybody on this Committee,
17 at least to my knowledge, that gave you specific
18 instructions to give a recommendation. And with the
19 knowledge of your past association with the person who
20 is representing on the other end of it, it would seem to
21 me that it would be discretionary for you to present
22 yourself in a -- in a legal sense, I guess you would
23 say -- it was not necessary, at least it wasn't in my
24 opinion, it was not necessary for you to make the
25 recommendation. It appeared like you, at that time,

1 were directing this Rules Committee. In other words,
2 you were boxing in this Rules Committee. You were making
3 a public statement to be accepted by the public as
4 a recommendation of the counsel, and it appeared to me
5 -- this is after watching it twice -- that that was part
6 of your specific duties and, as such, you were giving
7 them your recommendation.

8 I'd appreciate if you'd like to answer that,
9 sir.

10 MR. COUNCIL: Thank you, Senator Ray, at the outset of my
11 statement to the Committee on Saturday, I hope expressed
12 very clearly what I perceived to be my responsibilities,
13 with the emphasis on "I". What I perceived to be my
14 responsibilities. I certainly did not intend to, again,
15 as I've stated, to speak for the Senate or for this
16 Committee or appear to be espousing the view of this
17 Committee.

18 On the question of bias, all you can do is make
19 your apparent biases clear. We all come in here with
20 biases. There's no question about that. I think I have
21 met my responsibility to make my background clear, to
22 disclose what associations I have had in the past that
23 might bear upon how I would analyze this particular
24 question. I hope that I have done a professional job.
25 I can point out, for whatever relevance it might have,

1 that I am presently engaged in a lawsuit in which some
2 of the members of this Committee are defendants. I'm on
3 the other side of that. They are certainly aware of
4 that. There are other members of the Senate that are
5 defendants in that lawsuit.

6 But all we can do, all you can do, Senator, is
7 -- and, again, I don't presume to -- I apologize if it
8 sounds like I am lecturing, but all we can do is make
9 our biases clear so that the persons who are listening
10 to what we have to say can judge for themselves what
11 weight should be given to what it is we have to say.

12 In terms of the role that special counsel to this
13 Committee should take, as I've indicated, this matter
14 is without precedent. We certainly have other matters
15 that are not at all similar to this that have been
16 addressed by Committees, and those Committees have had
17 attorneys, and the attorneys for the Committees may or
18 may not have simply advised on the law. They may or may
19 not have made specific recommendations.

20 The most immediate example that we have are the
21 ABSCAM hearings that are, in part, still pending before
22 the United States Congress. And if the Senator wishes,
23 I can certainly give you records of proceedings before
24 the U.S. Congress in which special counsel to the
25 Committee played two roles -- he advised on the law and

1 he made a recommendation as to what action should be
2 taken.

3 That's been the role very commonly of attorneys
4 to Committees in this State and other states and the
5 United States Congress, and I certainly, in my opinion,
6 don't feel that I overstepped the responsibilities
7 that were assigned to me by this Committee.

8 SENATOR RAY: Thank you, Mr. Counsel. That's your opinion,
9 sir. I think that you did overstep the bounds. I think
10 that you did and I found that it was very objectionable
11 to me as a member of the Senate.

12 MR. COUNCIL: Well, Senator, you're certainly entitled to your
13 opinion.

14 SENATOR RAY: And so are you.

15 SENATOR KELLY: Senator Ray, do you have anything further,
16 sir?

17 SENATOR RAY: Pardon?

18 SENATOR KELLY: Anything further?

19 SENATOR RAY: No. I think that is sufficient, Mr. Chairman.

20 SENATOR KELLY: Senator Kerttula?

21 SENATOR KERTTULA: I do think, and I would be subject to
22 anybody disagreeing, that in our assignments to Mr.
23 Council, we did ask him and one of the principal reasons
24 he was employed, from my standpoint, was to be certain
25 that all Federal and State Constitutional rights of

1 Senator Hohman, and all legal rights of Senator Hohman
2 as defined, were certainly accorded him. I think there
3 was no doubt in my mind that that was one of the things
4 as an underpinning to this. I think that's true. Does
5 anybody argue with that?

6 SENATOR ZEIGLER: Mr. Chairman?

7 SENATOR KELLY: Senator Ziegler?

8 SENATOR ZEIGLER: I won't argue with it, no, but I think
9 the record should be made abundantly clear that some
10 members of this Committee were never present when the
11 procedures of this Committee were discussed with Mr.
12 Counsel, if indeed they were.

13 SENATOR KELLY: I'm sure your statement will go on the
14 record, Senator Ziegler.

15 SENATOR ZEIGLER: Thank you.

16 SENATOR KELLY: The procedures of this Committee were always
17 discussed on the record. Senator Dankworth?

18 SENATOR DANKWORTH: Mr. Chairman, just to make clear a couple
19 of things that I think are important. I don't take a
20 great deal of exception to what Senator Ray had to say
21 to the degree that I think that some people might feel
22 that counsel did not have to make a recommendation. I'm
23 not overly impressed with whether he did or didn't.
24 I don't think any member of this Committee is going to
25 make a decision based on Mr. Council's recommendation

1 to it.

2 I would point out, in his defense, that I think
3 he did an excellent job of summarizing the problems
4 before the Committee and, secondly, I believe there was
5 no prohibition made to him not to make his recommendation.
6 Maybe we're derelict in not giving him those
7 instructions, but he certainly was told not to, and
8 I think he was, as he said, guided by very little
9 precedent that has been set around this country. And
10 that's what happened in ABSCAM and others, and perhaps
11 I had the same feeling that Senator Ray and others might
12 have that it wasn't necessary for him to give us his
13 opinion and we can weigh it, as he says, for whatever
14 it's worth. We certainly got the opinion of Mr. Fraties
15 and others, so I don't think it's so -- I don't know one
16 member of this Committee that would vote one way or
17 the other based on our attorney's opinion.

18 But for that purpose, I just wanted to say that
19 I feel he did an excellent job on both sides, both to
20 Mr. Fraties, I thought he did an excellent job of
21 laying out for us what happened in summation; and so did
22 the attorney for the Committee.

23 Maybe it did strike me the same as Senator Ray
24 in that probably it wasn't necessary. I don't think any
25 damage was done as far as the proceedings of this

1 Committee.

2 SENATOR KERTTULA: Mr. Chairman?

3 SENATOR KELLY: Senator Kerttula?

4 SENATOR KERTTULA: It's also true that we did insist that
5 Gail Fraties have a right to a statement subsequent to
6 anything that Bill Council stated. I do think that
7 perhaps it's appropriate concern here, but we did accord
8 Mr. Fraties those rights, and I do associate myself
9 with Senator Dankworth's thinking on the subject that
10 there was no prohibition, there wasn't an expectation.
11 I think Mr. Council, if I might frankly interject a
12 personal thought, felt that perhaps Mr. Fraties had made
13 some statements that needed clearing up that had quasi
14 legal ramifications. And, to that extent, without
15 conferring with anybody, he felt it was appropriate and
16 necessary that he take them.

17 I didn't feel personally that it was necessary,
18 and I don't personally feel negative about it either.
19 It's one of those ambivalent things.

20 SENATOR KELLY: Senator Kerttula, special counsel was hired
21 by the Rules Committee with the broad discretion to
22 advise this Committee on the matter pertaining to
23 Senator Hobman. I felt that counsel has done an excellent
24 job and the Chair of this Committee is very satisfied
25 with the performance of special counsel in this matter.

1 Are there any other Senators that would like to
2 address the Committee at this time? Senator Hohman,
3 you have the floor, sir.

4 SENATOR HOHMAN: Thank you, Mr. Chairman.

5 I'd like to comment, I think, in three areas
6 this morning, areas that have been previously brought up
7 by members of the Senate.

8 I think specifically Mr. Counsel's recommendations
9 or behavior. They were detrimental to the interests of
10 looking at this problem in an objective way. I think
11 that Mr. Counsel is a very capable, able attorney and
12 a good person. I don't have any problems with that.
13 I think sometimes biases enter in and are displayed
14 unconsciously and without malice.

15 But what is going to motivate this Committee,
16 what has already very apparently motivated this Committee
17 is public opinion, and the impact on public opinion
18 of Mr. Council's statements is inflammatory. It's bound
19 to excite public opinion and confirm suspicions and so
20 forth.

21 Senator Fischer asked about the time sequence
22 information that I presented seven times, by Mr. Council's
23 count. And the reason that I did that is because I think
24 it graphically displays how ridiculous the bribery
25 charges are. It's after-the-fact influence. The answer

1 to Senator Fischer's question was that we, in fact, had
2 not closed out the bill. That there was action
3 subsequent to April the 30th, or during the time of the
4 alleged bribery, May 1 through 7.

5 I think the record is clear, maybe Mr. Council in
6 his review of the material can confirm or correct me,
7 that Mr. Meekins, Representative Meekins, had language
8 changes that were made. He directed staff to make those
9 changes after we had closed out the bill and sent it to
10 printers and before the time of the alleged bribery.
11 Representative Meekins was playing with that bill and
12 that language as it related to the CL-215s. I think the
13 record will indicate that Mr. Grogan, Fiscal Analyst
14 staff member of the Legislative Finance Division, was
15 asked to make those changes on either the 30th of
16 April or the 1st of May.

17 There are so many consistencies there. I think
18 this is a jury of my peers here in the Senate, and we
19 understand legislative process. And we understand to
20 varying degrees how the budgets are constructed.

21 I would hope that that rather complicated,
22 sophisticated kind of legislative maneuvering by
23 Representative Meekins is looked at with regard to those
24 language changes which he directed.

25 We've described that, his activity in that regard,

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1 without consulting the full membership of the body
2 or anyone on the body of that Free Conference Committee,
3 as a breach of ethics or a breach of conduct, legislative
4 conduct.

5 I think it's clear, and would be clear to any of
6 us here, that that is what he was involved in.

7 One request that we made several times during
8 last Saturday's hearing, was that the Senate -- this
9 Committee, hopefully, and the Senate as a body, would
10 ask for the expeditious treatment by the appeals court
11 or the Supreme Court of the appeal process. I think I
12 would like to renew that request before the body today
13 for their consideration regardless of which direction
14 the Committee decides to go.

15 I think that's important. It's certainly
16 important to me. I'd like to see this matter resolved
17 as quickly as possible, but I think it is important for
18 my constituents. There are thousands of signatures
19 supporting not only my continuance in office for the
20 remainder of this term, but indicating that there is
21 unwaivering support for my re-election. And I think
22 that my constituents should have that opportunity,
23 choice in the '82 election. And I would appreciate this
24 Committee's action, any action they might take in
25 support of that request for an expedited appeal process.

1 Thank you, sir.

2 SENATOR KELLY: Senator Ziegler.

3 SENATOR ZEIGLER: Mr. Council and I discussed Senator
4 Hohman's request before we convened this morning, and
5 I'd like to ask Bill what, if anything, would he
6 recommend that we do in terms of acceding Senator
7 Hohman's request for an accelerated or expedited
8 appellate process. I think that request is not unreason-
9 able and I think the sooner we get this thing to the end
10 of the road, the better off we're all going to be.
11 So what would you suggest we do? The President write
12 a letter, or shall we, the Senators, sign a letter to the
13 Supreme Court, or how would we go about it?

14 MR. COUNCIL: It certainly would not be inappropriate for
15 a letter to issue from this Committee or from the
16 Senate. I'm not sure, of course, what impact it may
17 or may not have on the court system. I would point out,
18 as Senator Ziegler well understands, that there is no
19 appeal pending at this time.

20 SENATOR ZEIGLER: I understand that.

21 MR. COUNCIL: So, technically, at least, a letter would be
22 premature, but the Committee is meeting now and I think
23 the court would understand that the Committee is going
24 to act, must act now. And I see nothing inappropriate
25 in meeting that request.

1 SENATOR ZEIGLER: Mr. Chairman?

2 SENATOR KELLY: Senator Ziegler?

3 SENATOR ZEIGLER: May I continue?

4 SENATOR KELLY: Sir.

5 SENATOR ZEIGLER: If nobody on the Committee objects, would
6 you draft ---

7 SENATOR KERTTULA: Could I comment?

8 SENATOR KELLY: Senator Kerttula.

9 SENATOR KERTTULA: Thank you. Didn't counsel Fraties, didn't
10 he speak very optimistically, as former counsel to some
11 members in a previous case ---

12 SENATOR ZEIGLER: That was the Andy Warwick case, yes.

13 SENATOR KERTTULA: -- a request that it be expedited, there
14 was a very favorable response from the State court at
15 that time?

16 SENATOR ZEIGLER: I was just going to suggest that perhaps
17 Mr. Council could rough draft a proposed message of that
18 type and let the Committee take a look at it before we
19 have it fired off.

20 SENATOR KELLY: The Chair sees no problem with counsel doing
21 that.

22 SENATOR DANKWORTH: Mr. Chairman?

23 SENATOR KELLY: Senator Dankworth?

24 SENATOR DANKWORTH: I don't know, maybe the request confuses
25 me a little bit. It's not that I necessarily object to

1 it, of this Committee getting involved in an appeal
2 process. I suppose there is no damage done in us asking
3 the State of Alaska to step up procedures for his appeal
4 process, but I feel it is somewhat, perhaps prematurely, I
5 want to say that any action that I might take as a
6 legislator concerning this issue has not a great deal
7 to do with whether -- about appeal process is somewhere
8 else down the line, maybe six months or so. I have
9 no objection, Senator Ziegler, if you'd just like this
10 Committee to help in stepping up the process.

11 SENATOR ZEIGLER: That's all I want.

12 SENATOR DANKWORTH: I have no objection.

13 SENATOR KELLY: The recommendation from this Committee,
14 I would imagine, Senator, would be separate from any
15 help we might be able to give Senator Hohman in ---

16 SENATOR DANKWORTH: That's understandable. I certainly
17 support it.

18 _____: The slightest subtleties aren't lost on the
19 body here.

20 SENATOR KELLY: There are no further Senators that wish to
21 comment to the Rules Committee?

22 SENATOR STIMSON: Mr. Chairman?

23 SENATOR KELLY: Senator Stimson?

24 SENATOR STIMSON: Thank you, Mr. Chairman. A couple of quick
25 questions for Mr. Council. When you were retained, Mr.

1 Council, was there any discussion of your bias about the
2 Hohman case?

3 MR. COUNCIL: Well, yes, there was. In the first meeting
4 I had with members of the Committee, I think all the
5 potential sources of bias, apparent or real, have been
6 brought out before this Committee as of this time.
7 That was, I think before we discussed anything else,
8 that was the first subject of discussion.

9 SENATOR STIMSON: Did you view your role as one of being an
10 advocate for the position that you ultimately took in
11 relation to the Hohman case?

12 MR. COUNCIL: I think I've stated, Senator, today and also
13 on Saturday what I viewed my role to be. I have, I think,
14 in abundant, unequivocal terms stated what my opinion was
15 respecting what action this Committee should take. I'm
16 not certain that it lends -- gets us any further down the
17 road in calling that a position of advocacy or calling it
18 anything else. I was certainly advocating a position on
19 Saturday, and I couldn't have made it any clearer that I
20 was advocating a particular position.

21 The question is: Did I view my role as an
22 advocate when I was first retained by this Committee, I
23 think the answer is no. I did not view my role as being
24 one of an advocate.

25 SENATOR STIMSON: Thank you. Thank you, Mr. Chairman.

1 SENATOR KELLY: Senator Dankworth?

2 SENATOR DANKWORTH: Mr. Chairman, just for the record and so
3 as each of us vote on what we are going to do here, I
4 want it clear, because of Senator Hohman's comment, that
5 perhaps Mr. Council inflamed public opinion that might
6 influence members of this body or this Committee. He
7 made that comment late Saturday evening. Since then
8 I've received not one communication or talked to one
9 soul concerning any comment he had other than perhaps
10 just someone making the comment that they felt he made
11 a good presentation or didn't, whichever, and I don't
12 recall. I think they were most were complimentary.

13 But, at any rate, I just want it clear to Senator
14 Hohman particularly that any vote that I might have here
15 won't be as a result of being inflamed by any public
16 passion created by the attorney.

17 SENATOR KELLY: Following Saturday's hearing, I had drafted
18 a draft report and resolution by legal services for
19 consideration of this Committee. I'll pass out these
20 drafts at this time for consideration.

21 SENATOR HOHMAN: Mr. Chairman?

22 SENATOR KELLY: Senator Hohman?

23 SENATOR HOHMAN: Just a question, one that was motivated by
24 Senator Stimson's remarks. This first meeting, I know
25 that sometimes I forget appointment and notices and so

1 forth, but the meeting during which Mr. Council's biases
2 were discussed, was that an announced public meeting?

3 SENATOR KELLY: Mr. Hohman, my recollection is that I had
4 made the decision that we were going to hire a special
5 counsel to help the Senate Rules Committee in the matter
6 of your case, sir. I had gone over several names from
7 various sources, people that have called and everything.
8 I called Mr. Council and asked if he would be interested.
9 He came to my office. I asked him if he had any
10 particular conflict of interest or any reason why he
11 could not take on this case in an objective professional
12 manner.

13 He indicated that ---

14 SENATOR HOHMAN: Sir, I don't wish to get into it. My
15 question was simply was that a public meeting or was it
16 not?

17 SENATOR KELLY: Excuse me, Senator?

18 SENATOR HOHMAN: My question was, was that a public meeting
19 or was that not a public meeting? And my second question
20 would be, was I noticed of it?

21 SENATOR KELLY: Senator, the hiring of counsel for this
22 particular investigation was not a public meeting per se.
23 It wasn't particularly meant to be a secret meeting
24 either. It was simply something that had to be done.

25 SENATOR HOHMAN: Thank you, sir.

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1 SENATOR KELLY: You have in front of you a draft Senate Rules
2 Committee Report. I'll read the report.

3 "Mr. President: The Committee on Rules has had
4 the question of possible disciplinary action against
5 Senator George H. Hohman, Jr. under consideration and
6 a majority of the Committee proposes a special resolution
7 for the expulsion of Senator George H. Hohman, Jr. and
8 recommends its adoption. Attached hereto is the report
9 of special counsel dated January 30th, 1982 which the
10 Committee has considered and adopted.

11 Incorporated in the record are the transcript
12 and documents of record from the Committee hearings in
13 this matter."

14 You also have in front of you a draft, if the
15 Committee so desires, of a Senate Special Resolution,
16 unnumbered at this time, expelling George H. Hohman, Jr.
17 from the Senate of the State of Alaska.

18 Are there any comments from the Committee
19 pertaining ---

20 SENATOR FERGUSON: Mr. Chairman, one on the Senate Rules
21 Committee Report. Why does it say the majority of the
22 Committee members? Why doesn't it say a unanimous
23 decision? Why doesn't it say something else?

24 SENATOR KELLY: I think, Senator Ferguson, it's not incorrect
25 -- isn't that standard operating procedure with most of

1 our Committee reports, that effectively a Committee cannot
2 take action unless a majority does recommend it? So
3 that's why the word "majority" is used.

4 SENATOR ZEIGLER: It's generally determined, Mr. Chairman,
5 if I may, by the way the Committee members sign the
6 report. It looks as if some of us may have been pre-
7 judged.

8 SENATOR KERTTULA: I do think that, upon reflection here
9 in reading it, under consideration, the Committee
10 proposes (end of Tape 7, side A).

11 -- it will then read "under consideration"
12 and 'the Committee proposes a special resolution for
13 the expulsion of Senator George H. Hohman, Jr., and
14 recommends its adoption."

15 SENATOR KERTTULA: That's the form that's used generally.

16 SENATOR KELLY: Are there any comments from the Committee?

17 SENATOR DANKWORTH: Mr. Chairman?

18 SENATOR KELLY: Senator Dankworth?

19 SENATOR DANKWORTH: If there is not any further comments,
20 I would like to move and make a motion that the Committee
21 adopt the Senate Rules Committee report.

22 SENATOR KELLY: There will be a show of hands on whether
23 the Committee shall adopt the Senate Rules Committee
24 report. Senator Ziegler?

25 SENATOR ZEIGLER: Question. Just to make sure we know where

1 we are going, I am going to vote, I believe, right now
2 for the adoption fo the Committee report, but I want to
3 reserve the right to make sure that I qualify my "do
4 pass" by having some language on the Committee report
5 itself. Do you follow me?

6 SENATOR KELLY: Any member of the Committee is free to
7 offer a minority report if they have one.

8 SENATOR ZEIGLER: Okay.

9 SENATOR KELLY: The question before the Committee then is
10 shall the Committee adopt the Committee report in front
11 of us expelling George H. Hohman, Jr. from the Alaska
12 State Senate. All those in favor, please raise your
13 right hand. [Pause] All those opposed? [Pause]

14 By a vote of four to one, the Senate Rules
15 Committee adopts the Senate Committee report and will,
16 as soon as possible, introduce the Senate Special
17 Resolution as yet unnumbered to the body.

18 SENATOR ZEIGLER: And all Committee members will have a chance
19 to sign.

20 SENATOR KELLY: They will, sir. Is there any further
21 business to come before the Rules Committee today?

22 SENATOR FERGUSON: Mr. Chairman?

23 SENATOR KELLY: Senator Ferguson?

24 SENATOR FERGUSON: I have a question. Will this resolution
25 be treated as all resolutions on the Senate floor?

1 SENATOR KELLY: Senator Ferguson, a Senate Special Resolution
2 is called for specifically by the Uniform Rules of the
3 Alaska Legislature. It requires three readings and
4 is to be treated like a bill.

5 SENATOR FERGUSON: Okay.

6 SENATOR KERTTULA: That is correct. It will be sent to the
7 appropriate committee.

8 SENATOR FERGUSON: Does that include reconsideration?

9 SENATOR KELLY: Yes, sir. Any further business to come
10 before the Committee?

11 SENATOR HOHMAN: Mr. Chairman?

12 SENATOR KELLY: Senator Hohman?

13 SENATOR HOHMAN: Just a question. What is the disposition
14 by the Committee of my request that they support an
15 expedited appeal process?

16 SENATOR KELLY: The Committee has asked legal counsel to the
17 Committee, William T. Council, to draft legislation
18 -- to draft a letter to that effect, sir.

19 SENATOR HOHMAN: Thank you.

20 SENATOR KELLY: The Rules Committee meeting is adjourned.

21 * * *

ALASKA STATE LEGISLATURE
TWELFTH LEGISLATURE - SECOND SESSION
January 12, 1982

Partial Transcript of Proceedings

SENATOR KERTTULA: . . . I have the responsibility of the question of Senator Hohman's retention by the Senate, staying in place. I assign that responsibility to the Rules Committee. That question is assigned to the Rules Committee, and all backup materials.


* * *

End of Transcript

C E R T I F I C A T E

I certify that I am a Notary Public in and for the State of Alaska, and that the foregoing, consisting of one page, is a true and correct partial transcript from the cassette tape of the 12th day of January, 1982 proceedings before the Senate of the Alaska State Legislature, Twelfth Legislature, Second Session.

DATED: January 18, 1982.



Notary Public for Alaska. My
Commission expires: 5/15/84.