

ALASKA LEGISLATURE COMMITTEE FILES BOX 86/2

1999 SRLS HOHMAN MATTER: DOCUMENTS OF RECORD - SB 135



Official Business

Alaska State Legislature

197

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO : MEMBERS OF THE SENATE
FROM: SENATOR JAY KERTTULA
SENATE PRESIDENT
DATE: JANUARY 12, 1982

I have been counseled that the following is an acceptable proceeding for Senate disposition of the Hohman jury decision.

1. The Senate President should charge the Rules Committee or appoint an investigative committee charged with holding hearings regarding discipline of Senator Hohman.
2. The committee should decide whether there should be Senate action based upon the jury decision against Senator Hohman; i.e., since he has been convicted whether he should be expelled.
3. The committee should use as its primary evidence a certified copy of the jury verdict and indictment and transcript of the trial. If it chooses, the Senate may appoint legal counsel to the committee.
4. The committee must afford Senator Hohman reasonable notice and the right to defend, including the right to appear in person and by counsel and the right to call witnesses.
5. The committee will decide any limitations on the scope of the inquiry.
6. If a majority of the committee votes to expel Senator Hohman as a member of the Senate, it must draft and introduce a special resolution calling for the Senator's expulsion.
7. This resolution will be calendared. A 2/3 vote of the Senate is required for expulsion.
8. It may be possible for Senator Hohman to challenge the legality of the Senate's actions. It is therefore important that he be given adequate notice (i.e. 5 days) and adequate opportunity to defend.

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811



Official Business

MEMORANDUM

TO : RULES COMMITTEE
 SENATOR TIM KELLY, CHAIRMAN
 SENATOR ED DANKWORTH
 SENATOR FRANK FERGUSON
 SENATOR BOB ZIEGLER

FROM : SENATOR JAY KERTTULA
 SENATE PRESIDENT

DATE : JANUARY 15, 1982

From conversations via telephone calls to East Coast lawyers who have handled legislative ethics cases, we have come up with a number of concerns.

If the case is reversed on appeal and Senator Hohman has already been expelled, there is the possibility that he will try to regain his seat. If the decision of the Senate of committee is based on the jury verdict, a reversal would mean there was no longer any basis for it and it would be open to challenge. The Senate needs an independent basis for its decision, either by conducting its own investigation or by actually reviewing the trial transcript. If the Senate acts on an independent basis, its decision would be virtually incontestable (i.e., a court could not review it).

The question can be referred either to a specially appointed or standing committee. The Senate should draft a resolution giving jurisdiction and authority to the committee and setting up rules for it. The resolution need not speak to what evidence is available to the committee (i.e. the transcript, verdict or indictment). The chairman or a vote of the committee can rule on the scope of evidence that it will hear.

The resolution or other statement of purpose of the committee should be limited. The resolution may say something to the effect that "Sen Hohman may adduce evidence to refute the contention that this conviction should not keep him from being an elected representative," i.e. that this kind of crime is not the sort which should lead to expulsion or other disciplinary action. The AG will be happy to help draft this.

The AGs mentioned that too many closed-door conferences might lead to the impression that the Senate was holding a kangaroo court and thus would create a point for appeal.

In their research they did not find a case exactly like this. In the U.S. Senate the committees have allowed a broad scope of evidence to be presented, so that a Senator can relitigate the question of guilt or innocence if he chooses. However, Senators (particularly Harrison Williams) have been cooperative in stipulating to limited testimony. In the House, they do not rely on the judgment of conviction but obtain the trial transcript. They do not allow the member to go beyond the transcript to introduce evidence, but none has wanted to go beyond the transcript either, usually because the evidence is too embarrassing. Here there is a closer question of guilt or innocence, and it may be worth Senator Hohman's while to go into it. It was the opinion of at least one of the AGs that it would be perilous (for purposes of appeal) to try to restrict the testimony too far once it had been opened. In the case of Rep. Myers, the House designated part of the transcript that it wanted to use and Myers designated the part that he wanted, so that the evidence was agreed upon before the hearing.

It was recommended that the committee not take final action until the sentencing is completed and the judgment of conviction is entered, since there is no technical conviction until then. The judge can overturn the jury verdict and may do so in a case where the evidence was close. This will take at least until March, since Sen. Hohman's probation officer just asked the court for more time to prepare her report and there are various post-trial motions pending. The AGs noted that it will take a long time for committee counsel to prepare for a hearing anyway if the committee decides to allow evidence beyond the transcript. The AGs had heard of only one case where the legislature proceeded before the judgment was entered, but there the representative resigned so there was no legal challenge.

As to the possibility of suspension until the appeal is over, neither the AGs nor Billy Berrier found any instance of it in their research. In two cases the legislature moved for suspension until the issue was decided, but in both cases (NY and Pennsylvania) the issue was resolved before the legislators were actually suspended. The AG points out that there are serious constitutional problems with suspension, since it effectively disfranchises the voters of the district and may be a violation of the federal voting rights act.

The AG expressed no opinion on whether Sen. Hohman may run for office again if convicted, and they don't want to be called upon publicly for an opinion until they figure it out. The Senator may only

run if he can vote; he loses the right to vote when convicted of a crime of moral turpitude, which bribery undoubtedly is; but he loses the right to vote as of the day when he is convicted. However, there is a legal technicality lurking in all of this which turns upon when exactly the date of conviction is. It may be either (1) upon entry of judgment (this spring) or (2) upon completion of his rights of appeal (one year easily). Depending on the definition Sen. Hohman may or may not be able to run for office again in November. The AG is, naturally, looking into it.

Their final recommendation, which you may not appreciate, is that the appropriate Senators talk to him until he sees the light and resigns.

I would add only one note of my own, about suspension: the fact that there are no known instances of suspension does not mean the Senate cannot or should not try it, but it does mean that some constituent in Bethel tie you up in litigation for a long time while the court tries to figure out what's going on. I would refer the question to Legal Services to get an opinion on what the result would be if the constituents are deprived of representation for the length of this session or longer.

For the record, the people talked to were:

John Saxon, Senate Ethics Committee, (202)224-2981

John Swanner, House Committee on Standards and Conduct,
(202)225-7103

E. Barret Prettyman, Jr., Special Counsel to the House
Committee for ABSCAM, Hogan & Hartson, (202)331-4685

JK/aj

FILED
STATE OF ALASKA
FIRST JUDICIAL DISTRICT
APR 30 6 04 PM '81
CLERK OF DISTRICT COURT
BY B N
DEPUTY CLERK

In the Superior Court of the State of Alaska
First Judicial District, Juneau, Alaska

STATE OF ALASKA

Plaintiff

v.

GEORGE H. HOHMAN, JR.

6/2/32

Defendant(s)

TWO COUNT

INDICTMENT

FOR

COUNT I
BRIBERY

Violation Section A.S. 11.56.100

COUNT II

RECEIVING A BRIBE
A.S. 11.56.110

No. 1311-81-464 Cr

The Grand Jury Charges:

COUNT I

BRIBERY

That from on or about the 1st day of May, 1980, through on or about the 7th day of May, 1980, at or near Juneau, in the First Judicial District, State of Alaska, George H. Hohman, Jr. did offer to confer money upon Edward Russell Meekins, Jr., a member of the Alaska State House of Representatives, with the intent to influence Representative Meekins' vote, opinion, judgment, action, decision, and exercise of discretion in his official capacity as a member of the Alaska State House of Representatives.

All of which is a class B felony in violation of AS 11.56.100.

COUNT II

RECEIVING A BRIBE

That from on or about the 1st day of May, 1980, through on or about the 8th day of May, 1980, at or near Juneau, in the First Judicial District, State of Alaska, George H. Hohman, Jr., did agree to accept money, upon an agreement or understanding that his vote, opinion, judgment, action, decision, and exercise of discretion as a member of the Alaska State Senate would be influenced thereby.

All of which is a class B felony in violation of AS 11.56.110.

DATED at Juneau, Alaska this 20th day of April, 1981.

A True Bill

David W. Koch
CHIEF PROSECUTOR

[Signature]
GRAND JURY FOREMAN

[Signature]
ASSISTANT ATTORNEY GENERAL

WITNESSES EXAMINED BEFORE THE GRAND JURY:

Edward Russell Meekins, Jr.
Thomas L. Bergstrom
Geoffrey Haynes
Russell Smith
Betty Gaines
J. H. Hogan
Kim Moore
Helen Irene Dickson
Robert Lewis Kocsis
Nancy Harvey
Peter Lawrence Kelley
Eric Eckholm
James M. Wilson
Ray Settles
Sharon Traylor
Carl F. Brady
Theodore G. Smith
William B. Sumner
Sigurd Einar Larsen
Richard Wien
John Holmquist
Richard L. Rude
Robert Schlaefli
Robert L. Grogan
Kim Arthur Hutchinson
Walter I. Griffith

Robert Acres
Sally Lee Nelson
Linda Rogers
Lindy Cheek
Jerry A. Kvasnikoff
Norman Israelson
Richard W. Halford
Arthur Francis Kelly, II
Sandra W. Kelly
Ule Dean Bivins
Darryl Johnston
Maurice Christie
Conrad F. Necrason
Emmett L. Wilson
George Diener
Carolyn Martin
Joseph Merrill
Michael DeMan
Alex Miller
Fred Barbee
Thomas Rachal
Cheryl Plowman
Kelly Lang
Robert J. Frascati
Richard G. Berg
William Haw

Lewis Dieckmer BN

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) SS

I, the undersigned, certify that this is a true and full copy of an original document on file in the Trial Courts, First Judicial District, State of Alaska.

Witness my hand and seal of this court
13th day of January, 1982
at Juneau, Alaska.

Clerk of the Trial Courts
By: *Lala P. Sigel*
Deputy

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,)
)
Plaintiff,)
)
vs.)
)
GEORGE H. HOHMAN, JR.,)
)
Defendant.)

No. 1JU-81-464 CR

Verdict No. 1

We, the jury, find the defendant, George H. Hohman, Jr., Guilty of bribery (guilty) (not guilty) as charged in Count I of the Indictment.

DATED at Juneau, Alaska, this 24 day of December, 1981.

Kurt Fredrickson
Foreman of the Jury

12-24-81
B. Howe
D. Kutz

STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

I, the undersigned, certify that this is a true and full copy of the verdict on file in the Trial Courts, First Judicial District, State of Alaska.

Witness my hand and seal of this court
13th day of January, 1982
at Juneau, Alaska.

Clerk of the Trial Courts
By: Lak. P. Vigil
Deputy

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,)
)
 Plaintiff,)
)
 vs.)
)
 GEORGE H. HOHMAN, JR.,)
)
 Defendant.)

No. 1JU-81-464 CR

Verdict No. 2

We, the jury, find the defendant, George H. Hohman,
 Tr., _____ ^{Guilty} of receiving
 (not guilty) (guilty)
 a bribe as charged in Count II of the Indictment.

DATED at Juneau, Alaska, this 24 day of December,
 1981.

[Handwritten Signature]

 Foreman of the Jury

12-24-81
[Handwritten initials]

STATE OF ALASKA
 FIRST JUDICIAL DISTRICT) SS

I, the undersigned, certify that this is
 a true and full copy of an original document
 on file in the Trial Courts, First Judicial
 District, State of Alaska.

Witness my hand and seal of this court
 this 13th day of January, 1982
 at Juneau, Alaska.

Clerk of the Trial Courts -
 By: *[Handwritten Signature]*
 Deputy

ALASKA STATE LEGISLATURE
TWELFTH LEGISLATURE - SECOND SESSION
SENATE RULES COMMITTEE

In the Matter of
SENATOR GEORGE H. HOHMAN, JR.

METHOD OF PROCEEDINGS

TO: Senator George H. Hohman, Jr.

1. Subject of Committee Hearings. The Senate Rules Committee, pursuant to referral by the Senate President, has been charged with the responsibility of holding hearings and recommending what action should be taken by the Senate as a result of the circumstances leading to the December 24, 1981 jury verdicts finding you guilty of the charges of bribery and receiving a bribe. Copies of the indictment and of the jury verdicts are attached. The transcript of the court proceedings is presently being prepared. A copy will be provided to you upon its completion.
2. Purpose of Hearings. The purpose of the hearings will be to determine if there is cause for the Senate to take action against you, and to determine what recommendations for action the Committee should make to the Senate.
3. Possible Committee Action. Committee action may include, but is not limited to, a recommendation that you be expelled from the Senate, pursuant to Article II, Section 12 of the Alaska Constitution, which provides that the Senate may expel a member with the concurrence of two-thirds of its members.
4. Scope of Hearings; Evidence that may be Presented. The Committee will receive evidence on the facts and circumstances leading to the December 24, 1981 jury verdicts finding you guilty of the charges of bribery and receiving a bribe. On those charges, the evidence will be limited to the transcript of the court proceedings and comments upon the evidence and other materials in the transcript. You will be provided a copy of the transcript. The Committee will also receive evidence relevant to the recommendations to be made to the Senate.

5. Rights of Senator Hohman. In the course of the proceedings, you

(a) will be given notice of the date, time and location of each Committee meeting;

(b) may attend all Committee meetings in person, and may be accompanied by legal counsel, or in the alternative may be represented at the hearings by legal counsel if you are unable to be present; and

(c) will have an opportunity to be heard, to testify yourself, to present witnesses on your behalf and to offer other evidence, to cross-examine witnesses, and to examine and comment upon any evidence or other materials presented to the Committee.

6. Schedule of Proceedings. (a) If you wish to make a presentation to the Committee, it is requested that you give the Committee Chairman reasonable written notice of the following:

(1) the name of your attorney or attorneys who are authorized to represent you in the proceedings, if you choose to have legal representation, and whether those attorneys may speak in your behalf in your absence;

(2) a witness list, including the names and current addresses of all witnesses who you intend to call to testify in these proceedings. For each witness listed, you should submit a brief summary of the testimony which the witness will provide;

(3) a list of all written materials which you intend to submit or alternatively, the actual written materials; and

(4) an estimate of the amount of time that you desire in order to make your presentation to the Committee.

(b) The Committee's counsel will provide you with reasonable written notice of the following:

(1) a witness list, including the names and current addresses of all witnesses who the Committee's counsel intends to call to testify in these proceedings, with a brief summary of the testimony which each witness will provide;

(2) a list of all written materials which the Committee's counsel intends to submit or alternatively, the actual written materials; and

(3) an estimate of the amount of time that Committee's counsel desires to make his presentation to the Committee.

(c) Within a reasonable period of time after receipt of the transcript of the trial proceedings, you may, if you desire, submit summaries of the evidence or other materials in the transcript, and you may direct the Committee's attention to specific portions of the transcript.

7. Changing Method of Proceedings. This Method of Proceedings may be changed by a vote of a majority of the Committee. Before such vote, notice of the proposed change will be provided to you and you will be allowed to comment upon it.

8. Record of Proceedings. Records of all proceedings will be maintained as provided in Rule 23 of the Uniform Rules.

DATED: January 19, 1982


Senator Tim Kelly
Chairman

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA, REQUESTING THE MEMBERS OF THE SENATE RULES COMMITTEE AND THE ALASKA STATE SENATE TO TAKE APPROPRIATE ACTION TO ALLOW SENATOR GEORGE HOHMAN TO CONTINUE TO REPRESENT THE CITIZENS OF BETHEL, THE YUKON-KUSKOKWIM DELTA AND THE STATE OF ALASKA.

WHEREAS, Senator George Hohman has been a strong advocate for the people of Bethel and the Yukon-Kuskokwim Delta for sixteen years; and

WHEREAS, Senator Hohman has demonstrated a complete understanding of the problems unique to this Region and its People as well as understanding of the problems facing all Alaskans in this time of State-wide transition; and

WHEREAS, Senator Hohman has worked diligently with insight and compassion throughout the years to resolve many of the problems related to the transition of a culture into the Twentieth Century; and

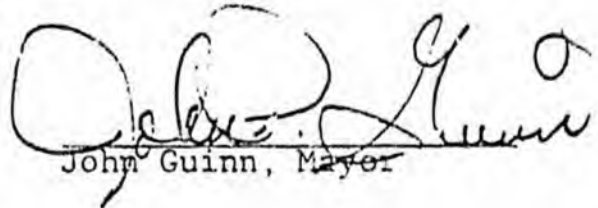
WHEREAS, Senator Hohman has tirelessly assisted Bethel in planning to meet the demands of the future for Bethel, the Region and the State of Alaska; and

WHEREAS, the City Council of the City of Bethel recognizes and appreciates the support that Senator Hohman has provided the City and the Region throughout the years,

THEREFORE BE IT RESOLVED that the City Council of Bethel, Alaska, requests the members of the Senate Rules Committee to carefully consider the effect of their decision on the people of the Delta and their future; and

BE IT FURTHER RESOLVED that the City Council of Bethel, Alaska, respectfully requests the Senate Rules Committee and the Alaska State Senate to take appropriate action to allow Senator George Hohman to continue to represent the Citizens of Bethel, the Yukon-Kuskokwim Delta and the State of Alaska as he has done so admirably for the past sixteen years.

PASSED AND APPROVED THIS 14th DAY OF JANUARY, 1982.


John Guinn, Mayor

ATTEST:


Wayne J. Malers, City Clerk

APRIL 27, 1980April 27, 1980, (FCC-80 on HB 60, Tape No. 13, Side 1 (179)-(1901))

MEEKINS - Before you move on to another category, I've got one more in Natural Resources. This \$805,000 for the purchase of the Canadair CL-215 fire suppression aircraft and the \$100,000 to operate them.

KERTTULA - Is it \$705,000 plus \$100,000, or \$805,000 plus \$100,000?

MEEKINS - It's \$705,000 plus \$100,000. Two sections.

HOHMAN - Move and ask unanimous consent for the adoption of those sections. (Silence) Hearing no objections, so ordered. They are adopted.

Ref. Defense Exhibit A

NOTE:

FROM THE STATE PROSECUTION EVIDENCE OFFERED, THE "ALLEGED" BRIBERY WAS TO INFLUENCE BEHAVIOR (THE REPRESENTATIVE'S VOTE, OPINION, JUDGMENT, ACTION, DECISION AND EXERCISE OF DISCRETION) OF THE WEEK BEFORE.

APRIL 30, 1980FCC ON HB 60

Sent to the printers to be put in final form for Committee review then to be signed off by the Free Conference Members and sent to respective bodies for final passage.

Staff then given authority to make technical changes.

MAY 1 - 7, 1980COUNT I: BRIBERY

That from on or about the 1st day of May, 1980, through on or about the 7th day of May, 1980, at or near Juneau, in the First Judicial District, State of Alaska, George H. Hohman, Jr. did offer to confer money upon Edward Russell Meekins, Jr., a member of the Alaska State House of Representatives, with the intent to influence Representative Meekins' vote, opinion, judgment, action, decision, and exercise of discretion in his official capacity as a member of the Alaska State House of Representatives.

All of which is a class B felony in violation of AS 11.56.100.

COUNT II: RECEIVING A BRIBE

That from on or about the 1st day of May, 1980, through on or about the 8th day of May, 1980, at or near Juneau, in the First Judicial District, State of Alaska, George H. Hohman, Jr. did agree to accept money, upon an agreement or understanding that his vote, opinion, judgment, action, decision, and exercise of discretion as a member of the Alaska State Senate, would be influenced thereby.

Ref: Hohman Court Case File,
Page 1, Vol. 1, 1981

APRIL

27

water
bombers

Motion
to adopt
unanimous
consent

no objection !!

Aircraft
purchase
provided

30

HB-60

closed



printers

MAY 1-7

* *

ALLEGED
BRIBERY

to influence

Vote
opinion
Judgement
action
decision
discretion

behavior



STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811

January 28, 1982

William T. Council, Esq.
Special Counsel
Committee On Rules
Alaska State Senate
319 Seward Street, Suite 203
Juneau, Alaska 99801

Re: Summary of Evidence Presented in
the Trial of State v. Hohman

Dear Mr. Council:

At your request, we have prepared the attached summary of the state's evidence presented in the trial of State v. Hohman, No. 1JU-81-464 Cr., including transcript references. We have considered your request in light of our obligations under the Code of Professional Responsibility, and believe it to be appropriate that we comply. See, in particular, Disciplinary Rule 7-107(I).

In order to prepare this summary in an expeditious manner and to keep it as concise as possible, we have necessarily omitted reference to a number of specific pieces of evidence that were presented in the state's case. We would refer you to the final argument of Assistant Attorney General Timothy Petumenos (Tr. 3479-3526 and 3578-92) for a more complete summary of these details. In addition, in light of the fact that we did not receive a copy of the trial transcript until the afternoon of January 24, the references made to that transcript may not be the best ones, although they certainly support the summary of evidence we have prepared.

A couple of additional points should also be mentioned. First, the evidentiary support for telephone calls and other business records is cited as plaintiff's exhibits 56-56F. Those exhibits consist of seven summary charts of certain events set out in the records and presented in chronological order. The charts were admitted into evidence in accordance with Alaska Rule of Evidence 1006 and appear in Volume III-D of the exhibits presented at trial, about 170 pages from the end of that

William T. Council, Esq.
Special Counsel

January 28, 1982
Page 2

volume. The charts in exhibits 56-56F are the most concise source of evidentiary support for the records presented and contain within them specific references to the other exhibits that establish the underlying foundation for each item of evidence summarized by the chart.

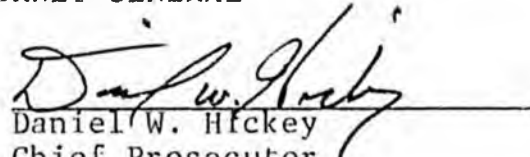
Second, an important piece of evidence regarding a meeting on April 30, 1980, between Senator Hohman, Michael DeMan, Sigurd Larsen and Robert Kocsis, does not clearly appear in the transcript presented to us. Evidence of that meeting, through the testimony of Kim Moore, appears at Tr. 2058-61. Unfortunately, the transcript does not contain the contents of the prior testimony of Ms. Moore elicited at the trial of State v. DeMan, No. 1JU-81-477 Cr., and played for the jury in State v. Hohman. (Tr. 2060.) During that earlier testimony it was much clearer that the participants in the meeting were Senator Hohman, as well as DeMan, Larsen and Kocsis. The jury was instructed that it could consider prior testimony as substantive evidence for the truth of the matter previously testified to. (Instruction No. 8.)

We hope that this summary of evidence has been responsive to your request. If you have any questions, feel free to contact us.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

By:


Daniel W. Hickey
Chief Prosecutor

DJG:lb

IN THE ALASKA STATE SENATE COMMITTEE ON RULES

ALASKA STATE LEGISLATURE

IN THE MATTER OF)
)
GEORGE H. HOHMAN, JR., SENATOR)
)

SUMMARY OF THE EVIDENCE PRESENTED IN
THE TRIAL OF STATE V. HOHMAN

On May 2, 1980 Representative Edward Russell Meekins, Jr., came to law enforcement authorities for the State of Alaska and alleged that he had been offered a sum of money by Senator George H. Hohman, Jr., in return for his vote and assistance on a proposed appropriation then pending before the Alaska State Legislature. A special grand jury was convened in Juneau to investigate this allegation. The context within which the allegation arose was the legislature's consideration of House Bill 60, a supplemental capital budget which was pending before a free conference committee in April and May, 1980. The subject of the bribery was a proposed appropriation within HB 60 for the purchase of two Canadair CL-215 fire fighting airplanes.

The evidence before the grand jury established, among other things, that four private conversations occurred during which Senator Hohman offered to share, with Representative Meekins, a sum of money if the appropriation passed. Those conversations took place on May 1, twice on May 2, and again on May 7. The evidence consisted of the sworn testimony of many witnesses as well as the business records, of airline companies and telephone companies, and other documents.

After lengthy delays as the result of petitions to the Alaska Supreme Court to obtain the testimony of a witness who had refused to testify, the grand jury returned a two-count indictment against George Hohman for bribery under AS 11.56.100 and bribe receiving under AS 11.56.110. Three other individuals were also indicted on bribery or perjury

DEPARTMENT OF LAW — CRIMINAL DIVISION
ATTORNEY GENERAL, STATE OF ALASKA
POUCH KC, JUNEAU, ALASKA 99811
PHONE (907) 465-3428

1 charges.

2 On December 24, 1981, after a three week trial, a
3 jury of twelve persons returned verdicts of guilty on both
4 counts of the indictment against Senator Hohman. The defendant's
5 motion for a judgment of acquittal or, in the alternative,
6 for a new trial, was denied by the superior court. This
7 document summarizes the evidence adduced during that trial.

8 Introduction

9 During the 1980 session of the Alaska State Legis-
10 lature a free conference committee was formed to consider
11 House Bill 60, a supplemental capital budget. The members
12 of the free conference committee from the House were Russ
13 Meekins, Co-Chairman, Jim Duncan, and Joe Montgomery. The
14 Senate members were George Hohman, Co-Chairman, Jay Kerttula,
15 and Glen Hackney. (Tr. 1255.) The size of this supplemental
16 capital budget was many times larger than any previous
17 capital budget, about 550 million dollars. (Tr. 1239.) The
18 committee's work during April and May of 1980, proceeded by
19 fits and starts. On a number of occasions appropriations
20 were tentatively approved, only to have numerous changes
21 made. (Tr. 1264-65.)

22 Among the hundreds of appropriations proposed
23 during consideration of HB 60, there was included a 2.1
24 million dollar request submitted by the Administration for
25 leasing fire suppression aircraft by the Department of
26 Natural Resources. The Administration had originally proposed
27 a 5 million dollar supplemental capital appropriation for
28 the purchase of two Canadair CL-215 airplanes in Senate Bill
29 345, but had changed that request to 2.1 million dollars for
30 leasing in response to criticism of state purchase of aircraft.
31 During the course of the committee's work a two section
32 appropriation in a total amount of \$805,000 was included and
33 was to be used as a down payment for the purchase of the
34 planes with maintenance and operation to be contracted out

1 to private enterprise. That approach became known as the
 2 "hybrid" proposal because although it complied with the
 3 Administration's desire to purchase the airplanes, it also
 4 satisfied concerns expressed by some legislators that the
 5 state ought not to be in the business of running airplanes.
 6 The hybrid language was, however, still product-specific in
 7 that it specified Canadair CL-215 aircraft. (Tr. 1252-63.)

8 During free conference committee consideration of
 9 HB 60 the Governor's request concerning fire suppression
 10 aircraft was discussed on April 11, 12, 26, 27 and May 8 and
 11 9, 1980. The hybrid proposal was first presented on April
 12 26 by Bob Grogan, a fiscal analyst for the Legislative
 13 Affairs Agency. (Plaintiff's Ex. 58.) Mr. Grogan had
 14 worked up the proposal as a "compromise" at the direction of
 15 Representative Meekins. (Tr. 1256-64.)

16 On April 27, Senator Hohman moved and asked unanimous
 17 consent for the adoption of the hybrid language for the
 18 purchase and private lease of Canadair CL-215's, and the
 19 proposal was adopted. (Plaintiff's Ex. 58, p. 21, Vol. III-
 20 D.) Shortly thereafter the committee tentatively approved a
 21 final list of appropriations to be included in HB 60 and
 22 sent it to the Legislative Affairs Agency for typing and
 23 technical amendments, although as indicated by Senator
 24 Hohman during his testimony at trial, a substantial amount
 25 of work was still to be done by the committee. (Tr. 3246-
 26 47.)

27 The First Conversation - May 1

28 Late in the afternoon of May 1, Representative
 29 Meekins met with Mr. Grogan to discuss the CL-215 appropria-
 30 tion and decided that a change in the language of the appropria-
 31 tion would assist in resolving the lease versus purchase
 32 issue. This language change was made pursuant to a previous
 33 termination by the committee that permitted changes as
 34 long as they did not affect the dollar amount or purpose of

1 an appropriation. (Tr. 1277.) The language change, which
2 became known as the "discretionary" language, removed the
3 reference to a specific type of airplane and allowed the
4 Department of Natural Resources to spend the money in its
5 discretion for fire suppression. (Tr. 1270-75.) Mr. Grogan
6 subsequently sought the advice of Jay Hogan, director of the
7 legislative finance division, who agreed that the amendment
8 discussed with Representative Meekins was a technical one
9 since the amount of the appropriation and the recipient of
10 the appropriation would not be changed. Mr. Grogan, with
11 the approval of Mr. Hogan, agreed to draft "discretionary"
12 language, with the understanding that Representative Meekins
13 would inform the committee of the change at the next free
14 conference hearing. (Tr. 1276-77; 2614-22; 2860-61.)

15 The change in language requested by Representative
16 Meekins was the result of discussions he had had with a
17 number of legislators who had reviewed the working draft of
18 HB 60. In particular, Representative Meekins had spoken
19 with Joe Montgomery, as well as Rick Halford and Bill Sumner.
20 Meekins knew that Halford and Sumner had a great deal of
21 experience with aircraft and he respected their opinions in
22 matters dealing with airplanes. Both Halford and Sumner had
23 strongly criticized the air worthiness and other capabilities
24 of the CL-215s. (Tr. 1265-68.) Senator Sumner's conversation
25 with Representative Meekins had, in fact, taken place at
26 about 2:30 p.m. on the afternoon of May 1, just a couple of
27 hours before Meekins discussed a change in the language with
28 Bob Grogan. (Tr. 1268.)

29 During Senator Sumner's conversation with Russ
30 Meekins at 2:30 p.m. on May 1, Senator George Hohman was
31 present. Senator Sumner argued very strongly that the CL-
32 215 appropriation should be deleted and that other planes
33 should be leased. Representative Meekins expressed sympathy
34 for Senator Sumner's concerns. (Tr. 1269.) Senator Hohman

1 made no comment at the time. (Tr. 1268-69.) Within the
 2 next two hours following the Sumner conversation with Meekins
 3 and Hohman, there were a number of phone calls made between
 4 California, Juneau and Anchorage. The telephone calls with
 5 California were to and from the home and office of one
 6 Sigurd E. Larsen, the North American sales representative
 7 for Canadair CL-215 airplanes. The calls made to and from
 8 Anchorage were with phones associated with Arthur F. "Chip"
 9 Kelly, a Western Airlines employee who had also been employed
 10 as a part consultant by Larsen and Canadair, and to General
 11 Conrad Necrason, Kelly's father-in-law, and the head of the
 12 Alaska National Guard, the agency that was originally slated
 13 to operate and maintain the CL-215 aircraft for the State of
 14 Alaska. The calls made to and from Juneau were from Senator
 15 Hohman's office or from Michael DeMan's room at the Baranof
 16 Hotel, where he was staying at the time. (Plaintiff's Ex.
 17 56A and B, Vol. III-D.). One of those calls was placed by
 18 Michael DeMan to General Necrason. DeMan requested that
 19 Necrason lobby Joe Montgomery, who had become, earlier that
 20 day, adamantly opposed to the CL-215s. General Necrason
 21 refused to do so. (Tr. 1266; 2763.)

22 At 7:23 p.m. on May 1, Michael DeMan called
 23 Larsen's home in California from the Baranof Hotel, and
 24 spoke for eight minutes. (Plaintiff's Ex. 56B, Vol. III-D.)
 25 An hour and a half later, at a fundraiser for Representative
 26 Jack Fuller, Senator Hohman called Representative Meekins
 27 aside and brought up the subject of the airplanes. Senator
 28 Hohman said that before a decision was made, he ought to
 29 make a phone call because there was a possibility of substantial
 30 campaign donations in it for him and Representative Meekins.
 31 Representative Meekins was surprised by the statement and in
 32 trying to reject the request in a tactful manner stated that
 33 it wouldn't be possible to do that because he had already
 34 made a change and it was too late to do anything about it.

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1 Representative Meekins then told Senator Hohman about the
2 language change he had discussed with Bob Grogan. (Tr.
3 1279-83.) An hour and a half later Michael DeMan called
4 Chip Kelly's home in Anchorage from the Baranof Hotel, and
5 spoke for twelve minutes. (Plaintiff's Ex. 568, Vol. III-
6 D.)

7 The Second Conversation - Morning of May 2

8 Representative Meekins was disturbed by the conversa-
9 tion with Senator Hohman. The next morning, May 2, he
10 decided that he should tell the Speaker of the House, Terry
11 Gardiner, and went to the speaker's office to do so. (Tr.
12 1284-85). However, before he was able to talk to Representative
13 Gardiner alone, Senator Hohman entered the office and motioned
14 Representative Meekins aside. Senator Hohman brought up the
15 subject of the airplanes and said "it's twenty thousand, ten
16 thousand for you and ten thousand for me." The two legislators
17 walked into the hallway and stopped in front of the cloakroom.
18 Senator Hohman then brought up the subject again and said
19 that they had to do two things. He said that they had "to
20 hold the language in regards to the airplane appropriation,
21 and do the pollution control thing". Representative Meeki's
22 asked him what he meant by pollution control but didn't
23 understand his reply. The Senator then said something about
24 thirty thousand dollars but corrected himself and repeated
25 the twenty thousand dollar figure. (Tr. 1286-88.)

26 Representative Meekins was extremely disturbed and
27 related the conversation with Senator Hohman to his aides,
28 John Crandall and Mike Doogan, and to the governor's executive
29 assistant, Jerry Reinwand, and the Attorney General. (Tr.
30 1289-92.)

31 About an hour after the conversation, calls were
32 made from Senator Hohman's office to Sigurd Larsen's home
33 and office in California. At about that time Rob Kocsis,
34 Senator Hohman's aide, talked to Nancy Harvey (now Meekins)

1 an administrative assistant to the Free Conference Committee
2 on HB 60. Kocsis told her that it was very important that
3 the language in HB 60 relating to the CL-215s be left as it
4 was at that time. (Tr. 2001; 2005.) A half hour later Rob
5 Kocsis, at Senator Hohman's request, called Ted Smith,
6 Director of the Division of Forest, Land and Water Management,
7 in Anchorage. (Tr. 3269; Plaintiff's Ex. 56C, Vol. III-D.)
8 Kocsis read Smith the discretionary language and asked him
9 what he would do if the appropriation passed without the
10 specific reference to Canadair CL-215s. Smith told Kocsis
11 that he still intended to purchase the CL-215s (Tr. 2372-
12 73; 1925-1933.)

13 The Third Conversation - Afternoon of May 2

14 Later in the afternoon on May 2, at about 5:00
15 p.m., as a result of his meeting with Attorney General
16 Gross, Representative Meekins went to Senator Hohman's
17 office. In the Senator's inner office, with the doors
18 closed, Representative Meekins told him that "I want to get
19 something straight with you. I don't want anything to do
20 with the purchase or lease or whatever of the bombers. I
21 think its illegal, it's immoral, it's wrong, I don't want to
22 participate. I don't want anything to do with it. I don't
23 want to get involved." (Tr. 1302-03.) A discussion ensued
24 about the airplanes and Representative Meekins also said
25 "it'll come back to legally bite us." Senator Hohman then
26 responded by saying that "it can be done in such a way that
27 there would be little risk." (Tr. 1304.)

28 Senator Hohman also said that all they had to do
29 was to hold the language and that would be worth twenty
30 thousand split three ways, and the pollution control thing
31 would be worth ten thousand. Senator Hohman said that "the
32 department is about ready to do something that ... a certain
33 person would very much appreciate, and his appreciation
34 would show itself to the tune of twenty thousand dollars".

1 Senator Hohman said that the appropriation for the purchase
2 of the airplane's "yields" twenty thousand and the pollution
3 control thing "yields" ten thousand. (Tr. 1305-06.) At
4 this time Representative Meekins was not aware that the CL-
5 215s, with additional equipment, were capable of spreading
6 chemicals over oil spills to eliminate oil pollution.
7 Sigurd Larsen was in fact pushing that aspect of the CL-215s
8 very hard and went to Alaska in late April to educate legislators
9 on the oil spill capabilities of the aircraft. (Tr. 2188-
10 97.)

11 During the conversation, Representative Meekins
12 continued to reject the offer saying that it was illegal and
13 wrong. He also said that he already had twenty thousand
14 dollars in his campaign and didn't need the money. Senator
15 Hohman responded and said "You have twenty thousand dollars?
16 Well, I'm forty thousand dollars in the hole." (Tr. 1307.)

17 At some point in the conversation the Senator
18 called his aide, Rob Kocsis, to come into the room. The
19 reason that Kocsis was called was because there was a question
20 about what language was in the bill and what it needed to
21 be. The Senator said that holding the language would be
22 easier than some other move, and that Rob Kocsis knew all
23 about the language. When Kocsis came into the office he
24 showed Meekins the draft containing the product-specific
25 "hybrid" language for purchase and private lease of the CL-
26 215s. Meekins told him that that was the old draft and it
27 was not what they were talking about. At this point Representa-
28 tive Meekins got up and walked out of the office. Senator
29 Hohman followed him out and said "Rob doesn't know anything
30 about this." (Tr. 1306-08.)

31 The Fourth Conversation - May 7

32 During the next several days, Representative
33 Meekins met with a number of his advisors and also with
34 private counsel. On May 6 Meekins again met with the attorney

1 general, who had just returned to Juneau that day from a
2 brief trip. At that meeting prosecuting attorneys from the
3 criminal division of the Department of Law were called in.
4 Representative Meekins related the substance of his conversations
5 with Senator Hohman, agreed to cooperate in an investigation
6 and was asked to wear a hidden microphone to record a further
7 conversation with Senator Hohman. He agreed to attempt to
8 have an additional conversation with the Senator in order to
9 find out whatever additional information he could about the
10 third person with whom the money was to be split but was
11 unwilling to wear a recording device. (Tr. 1308-12.)

12 Representative Meekins was unsure how to approach
13 Senator Hohman since he had rejected the offer only a few days
14 earlier. It was agreed that Representative Meekins should again
15 tell Senator Hohman about legislative opposition to the CL-
16 215 appropriation and that he was becoming afraid. In the
17 late afternoon of May 7, Meekins again talked privately with
18 Senator Hohman in the senator's inner office. With Representa-
19 tive Montgomery's approval, Representative Meekins told the
20 Senator that Joe Montgomery still felt very strongly about
21 the airplane appropriation and that he (Meekins) was nervous
22 and was worried that it was going to get out. The Senator
23 responded "No, your ass isn't hanging out at all." The
24 Senator said that he would just swear that he didn't know
25 anything, and that he (Meekins) would say he didn't know
26 anything and nothing would ever happen. (Tr. 1313-15.) The
27 senator also said that he didn't solicit this, that someone
28 had just come into his office and approached him. (Tr. 1315.)

29 Representative Meekins then expressed concern that
30 the third person was a legislator and indicated that he felt
31 that some legislators couldn't be trusted. At this point
32 Senator Hohman said "No, no, it's not a legislator, its just
33 a person who happened to be sitting next to another person
34 on an aiplane." Senator Hohman indicated that one person

1 got off the airplane to stay in Juneau and the other person
 2 continued on. Also, Senator Hohman said that the person who
 3 continued on was willing to pay large sums of money, if
 4 certain things happened and the person who got off the plane
 5 and stayed in Juneau was the intermediary with whom the
 6 money would be split and that that person was trustworthy.
 7 (Tr. 1315-16.)

8 Representative Meekins also told Senator Hohman
 9 that he was concerned about twenty thousand dollars going
 10 into a campaign account because the law says one person can
 11 only make a thousand dollar donation. Senator Hohman then
 12 said "No, it doesn't have to go into the campaign." Senator
 13 Hohman then hesitated and held out his hands as though he
 14 was holding something and said "it'll just be a sack full of
 15 money." (Tr. 1317-18.)

16 The conversation ended with Senator Hohman saying
 17 that if it did get in, in a couple of months down the road
 18 there would be some money coming in and at that time Repre-
 19 sentative Meekins would have a decision to make as to whether
 20 or not he was going to accept the money. The meeting on the
 21 afternoon of May 7 was the last private meeting between
 22 Representative Meekins and Senator Hohman. (Tr. 1319.)

23 Evidence Independent of the Conversations

24 Immediately after this fourth conversation with
 25 Senator Hohman, Representative Meekins went "to a prearranged
 26 meeting to describe exactly what had transpired". (Tr.
 27 1320.) On May 9 Representative Meekins met with prosecuting
 28 attorneys from the Department of Law and investigators from
 29 the Department of Public Safety and gave a comprehensive
 30 statement concerning all of the meetings with Senator Hohman.
 31 He told them about the description that Senator Hohman had
 32 given of the third person as someone who had been sitting on
 33 an airplane with someone else who was "willing to pay large
 34 sums of money if certain things happened" and who "continued

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1 on, presumably to Seattle". (Tr. 1316.)

2 What Representative Meekins did not know at the
3 time, and what was only discovered later through an investi-
4 gation by the grand jury, was that on April 29, Senator
5 Hohman's longtime friend and business associate, Michael
6 DeMan, had met with Sigurd Larsen in Anchorage at a breakfast
7 meeting at the Sheraton Hotel. That meeting had been arranged
8 by Chip Kelly, DeMan's neighbor, for the purpose of asking
9 DeMan to assist in legislative efforts concerning the sale
10 of the airplanes. Larsen had flown to Anchorage the day
11 before specifically for the purpose of this meeting. Larsen
12 asked DeMan to introduce him to legislators, including
13 Senator Hohman, and to help him with the legislation for the
14 purchase of the CL-215s. (Tr. 2193-97.) During the course
15 of the breakfast meeting DeMan made a phone call from the
16 pay phone at the Sheraton Hotel which was billed to his home
17 phone. DeMan phoned Senator Hohman's office and left the
18 following message:

19 Phone Message for: Sen.
20 M. Mike DeMan
21 telephoned.
22 Message: Would like to meet w/ you Wed. 4/30
23 afternoon re: H.B. 60 5,000,000 fire
24 suppression Sig Larsen Canadair (builds planes)
25 lv message [at] # if answer is no,
26 phone: 688-9092 Date: 4/29 Time: 10:45

27 (Plaintiff's Ex. 56, Vol. III-D.) That night DeMan called
28 Senator Hohman's office at 10:16 p.m. for 4 minutes, asked
29 one of Senator Hohman's aides, Kim Moore, about the CL-215
30 appropriation and asked to speak to the Senator. He called
31 again at 10:56 p.m. for 10 minutes. (Plaintiff's Ex. 56B,
32 Vol. III-D.)

33 The next day, April 30, just one day before
34 Senator Hohman first approached Representative Meekins,
35 DeMan and Larsen flew from Anchorage to Juneau on Alaska
36 Airlines Flight 62. DeMan stayed in Juneau and Larsen
37 continued on to Seattle a few hours later in order to return

1 to Los Angeles the following day. Larsen did, however, come
2 into downtown Juneau for a short period and went to the
3 Senate Finance Room with DeMan to be introduced to Senator
4 Hohman. (Tr. 2206-10; 2531.) That day DeMan and Larsen had
5 a closed door meeting with Senator Hohman in his inner
6 office. Rob Kocsis entered the meeting a short while later.
7 (Tr. 2058-61.) Michael DeMan has persistently maintained
8 that he never spoke with Senator Hohman about the CL-215
9 appropriation or about Sigurd Larsen. He has also maintained
10 that he never tried to set up an appointment with Senator
11 Hohman about the planes and that he did not assist Larsen
12 with the legislation. (Tr. 2577-80.) He was previously
13 found guilty of perjury by a jury at his own trial for
14 testifying under oath before the grand jury to these facts.
15 (Tr. 2580-81.) Senator Hohman likewise maintains that he
16 "never talked to Michael DeMan about the CL-215's". (Tr.
17 3255.)

18 As salesman for the CL-215s, Larsen stood to gain
19 a fifteen thousand dollar commission for each plane sold, or
20 a total of thirty thousand dollars for the sale of the two
21 planes proposed in HB 60. (Tr. 2167.) Larsen visited
22 Senator Hohman's office on several occasions. (Tr. 1860;
23 2036-40; 2057.) However, as of May, 1980, Larsen had only
24 contacted Senator Hohman's office, or any of the members of
25 the free conference committee for HB 60. Larsen was acting
26 on the advice of Senator Hohman's office and was guided by
27 their recommendations. Larsen had even told Ted Smith that
28 he could be contacted in Juneau either at his hotel or at
29 Senator Hohman's office. (Tr. 2374-75.)

30 During his stay in Juneau, in late April, Michael
31 DeMan had lunch with Kim Hutchinson, among others, at Lew
32 Dischner's table at the Baranof Hotel. During the course of
33 that lunch, DeMan mentioned that he was helping a neighbor
34 in securing passage of legislation to purchase CL-215 aircraft

1 and that he stood to make money if the legislation passed.
2 At that time, DeMan mentioned the figure twenty thousand
3 dollars and also indicated that "George" was also interested
4 in the legislation. (Tr. 2994-98.)

5 Final Action On The Appropriation

6 The day following the May 7 conversation between
7 Representative Meekins and Senator Hohman, Michael DeMan
8 again flew to Juneau and attended a lengthy free conference
9 committee meeting on the CL-215s. (Tr. 2571-76.) During
10 that hearing Representative Meekins moved to delete the
11 "hybrid" language and called the committee's attention to
12 the discretionary language that had been drafted by Bob
13 Grogan. (Tr. 1278; Plaintiff's Ex. 58, p. 22-54.) Rob
14 Kocsis, who attended the hearing, said he thought it was a
15 serious "breach of legislative ethics" for Meekins to request
16 such a change in the language of the draft bill. (Tr. 1967-
17 68.) In response to a series of questions by the state to
18 demonstrate that there was nothing improper or out of the
19 ordinary in Representative Meekins' actions, Kocsis also
20 testified that the fact that a similar request was made by
21 Senator Kerttula would not surprise him and offended him.
22 (Tr. 1991-92.)

23 During the free conference committee hearing of
24 May 8 Senator Hohman requested the administration's position
25 on the CL-215s and ultimately Jerry Reinwand appeared before
26 the committee. Mr. Reinwand made a rather terse statement
27 before the committee indicating that the administration had
28 problems with the appropriation. (Plaintiff's Ex. 58, p.
29 51; Tr. 1322-24.) The next day, May 9, there was a motion
30 to delete the appropriation made by Representative Meekins
31 and Senator Hohman asked for unanimous consent. (Tr. 1326.)
32 HB 60 was passed out of committee that day without any
33 appropriation for CL-215s. That night Michael DeMan flew
34 back to Anchorage. (Tr. 2571; Plaintiff's Ex. 56F, Vol. III-D.)

1 Subsequent Legal Proceedings

2 In mid-May 1980, a grand jury was convened and an
3 investigation was undertaken. The grand jury heard testimony
4 from over 50 witnesses, and reviewed thousands of pages of
5 documents, including travel records, phone records, and
6 various pieces of legislation. Senator Hohman's aides, Kim
7 Moore and Helen Dickson, were subpoenaed, but before they
8 testified they had a meeting with the Senator and Rob Kocsis.
9 Moore and Dickson were advised not to volunteer information
10 before the grand jury, but just to answer specific questions.
11 (Tr. 2065-67; 1941-42.) The grand jury indicted Senator
12 Hohman on charges of bribery and bribe receiving. Michael
13 DeMan was indicted on 11 counts of perjury. Chip Kelly was
14 indicted on six counts of perjury. Sigurd Larsen was indicted
15 on three counts of perjury and two counts of bribery.

16 After a lengthy trial in September and October of
17 1981, Michael DeMan was convicted of five counts of perjury.
18 As a result of rulings by the superior court, Larsen and
19 DeMan were granted transactional immunity in order to obtain
20 their testimony in State v. Hohman. The indictments against
21 them were dismissed over the objection of the state. In the
22 case of Michael DeMan the convictions for perjury were
23 vacated, again over the objection of the state.

24 During their testimony in State v. Hohman, Michael
25 DeMan and Sigurd Larsen continued to deny any involvement in
26 or knowledge of a bribery scheme relating to the CL-215s.
27 Sigurd Larsen also had given the same testimony in State v.
28 DeMan, and verdicts of guilty were returned on five counts
29 of perjury. In Senator Hohman's trial yet another jury
30 considered their testimony denying any involvement in or
31 knowledge of a bribery scheme.

32 In addition, Senator Hohman testified that he was
33 not a party to a bribe. During the course of his testimony
34 a number of contradictions and inconsistencies were apparent.

1 He admitted, for example, that he talked to Representative
2 Meekins on May 1 at the Fuller fundraiser and attempted to
3 explain that he brought up the subject of the planes because
4 he wanted to show off his knowledge as a result of a "crash
5 course" he took on the merits of the CL-215s. However, the
6 Senator took this "crash course" after April 27, when he
7 believed the appropriation was already finally adopted as
8 part of HB 60 at a time when according to his present version
9 of events he had no reason to be concerned about the appropri-
10 ation and certainly no reason to involve another legislator
11 in a bribe. The Senator said that most of the information
12 he had on the planes on May 1 came from Rob Kocsis. (Tr.
13 3248-3251.) Kocsis, however, testified that May 2, 1980,
14 was the first time he had ever seen the appropriation. (Tr.
15 1913.) Additionally, Senator Hohman stated during the on-
16 record proceedings of the free conference committee on May
17 8 that he had not read the backup material for the appropriation.
18 (Tr. 3318, 3320-22.)

19 Senator Hohman also said that on May 1 he discussed
20 with Meekins possible campaign contributions as a result of
21 the CL-215s (Tr. 3146) even though he had no reason to do
22 so. (Tr. 3263.) Ultimately, he had no explanation for why,
23 out of all the many appropriations involved in HB 60, he
24 discussed the CL-215s with Representative Meekins and mentioned
25 that there might be campaign contributions. (Tr. 3261.) If
26 Senator Hohman knew about the merits of the planes on May 1,
27 and about any potential campaign contributions, he could
28 have only obtained that information from Michael DeMan and
29 Sigurd Larsen, who had flown together to Juneau and had met
30 with him the previous day. However, Senator Hohman maintained
31 that he never talked with Michael DeMan, Sigurd Larsen, or
32 anyone at Canadair. (Tr. 3261.)

33 Finally, and most importantly, Senator Hohman
34 acknowledged that on June 3, 1980, he was told by Attorney

1 General Gross that an investigation was pending and was
2 urged to get an attorney. Shortly, thereafter, Senator
3 Hohman told Chuck Kleeschulte, a reporter for the Juneau
4 Empire, that he had never met privately with Representative
5 Meekins to discuss the CL-215s. That statement appeared in
6 a newspaper article on June 4 and Mr. Kleeschulte confirmed
7 that it was made to him during testimony given at trial.
8 (Tr. 3454-57.) Senator Hohman testified, however, that he
9 indeed had had four private meetings with Representative
10 Meekins concerning the airplane appropriation at the times,
11 on the dates and in the places testified to by Representative
12 Meekins.

13 Conclusion

14 The argument presented by the state to the jury at
15 the conclusion of the trial, based on all of the evidence
16 presented, was as follows: You should not convict Senator
17 Hohman simply because you find Representative Meekins'
18 testimony to be credible and the Senator's not, even though
19 as a matter of law the testimony of one person is sufficient
20 in and of itself to support a conviction. Rather, you
21 should convict Senator Hohman because:

22 1) Critical aspects of Representative
23 Meekins' testimony consists of details
24 concerning the bribery scheme and the
25 identity of its participants that he
26 learned from his conversations with
27 Senator Hohman and which he had no
28 other way of knowing;

29 2) These details are corroborated by
30 wholly independent evidence, largely
31 in the form of unimpeachable business
32 records;

33 3) The defense did not attempt to
34 explain how Representative Meekins knew
the things he did independent of the four
private conversations he had with Senator
Hohman;

4) Other participants in the bribery scheme
or its cover up were unable to get their
stories straight before the grand jury and
became committed to contradictions between
each other's testimony, under circumstances

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where there would not be contradictions in the absence of a motive to conceal; and

5) Other participants are lying about the specifics of various events and about claims of a failure to recollect, under circumstances where only someone involved in such a scheme would have a reason to lie.

George Hohman was convicted by jury verdict on both counts of the indictment.

DATED at Juneau, Alaska, this 2nd day of January, 1982.

Respectfully submitted,

WILSON L. CONDON
ATTORNEY GENERAL

By: *Daniel W. Hickey*
Daniel W. Hickey
Chief Prosecutor

and

Dean J. Guaneli
Dean J. Guaneli
Assistant Attorney General

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STATE OF ALASKA,)
)
 Plaintiff,)
)
 vs.)
)
 GEORGE HOHMAN,)
)
 Defendant.)

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Office of Special
Prosecutions and Appeals

Case No. 1 JU 81-464 CR.

ORDER DENYING DEFENDANT'S MOTION FOR
ACQUITTAL OR IN THE ALTERNATIVE FOR NEW TRIAL

This Court, having considered defendant Hohman's December 30, 1981 Motion for Acquittal or in the Alternative for New Trial, and accompanying affidavit of counsel, and having further considered plaintiff State of Alaska's January 6, 1982 opposition thereto, and having further considered defendant's request for oral argument and/or a hearing thereon, and being duly advised in the premises,

HEREBY ORDERS that:

(1) Defendant's Motion for Acquittal or in the Alternative for New Trial is DENIED.

(a) To the extent that defendant's alternative motions are based on the length of time of the jury deliberations in this case, the motions are denied with prejudice. Although the presentation of evidence in this case took over two weeks, the indictment herein set forth only two counts alleging felonies, and the case presented the jury with straightforward questions of witness credibility. Under the circumstances, this Court concludes that the length of jury deliberations herein does not reflect jury passion or prejudice which would require setting aside the jury verdicts in this case. See deMars v. Equitable Life Assurance Society, 610 F.2d 55, 65 (1st Cir. 1979) (where a verdict was returned after only thirty minutes of deliberations, the Court of Appeals noted that "We do not

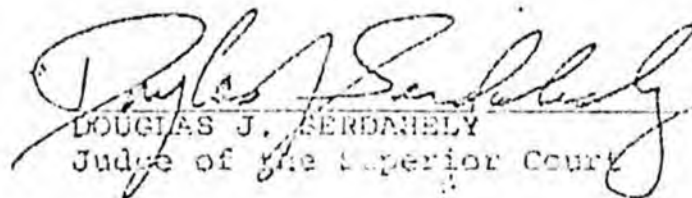
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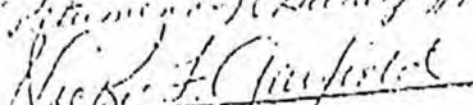
think that passion or prejudice is measured by the time a jury takes to arrive at its verdict."). This Court further concludes herein that reasonable men could differ on the question of whether the defendant's guilt on both counts had been established beyond a reasonable doubt, within the meaning of Criminal Rule 29 and the standard set forth in Gray v. State, 525 P.2d 524, 526 (Alaska 1974).

(b) To the extent that defendant's alternative motions are based on the allegation of juror misconduct, the motions are denied without prejudice. Defendant's motion and supporting affidavit of counsel do not allege any specific instance of juror misconduct. If defendant discovers evidence of juror misconduct, defendant may renew this aspect of his alternative motions at such time. The Court, of course, presently intimates no view as to the merits of any such motion and/or the procedural propriety or timeliness of any such motion.

(2) Defendant's request for oral argument and/or a hearing on the foregoing alternative motions is DENIED. To the extent that defendant's request for a hearing pertains to the allegation of juror misconduct, the Court denies the request without prejudice.

DATED at ANCHORAGE, ALASKA this 26th day of January, 1982.


DOUGLAS J. SERDAHELY
Judge of the Superior Court

I certify that on 1/26/82
a copy of the above was mailed
to each of the attorneys
and/or individuals at their
addresses of record.
(Attorneys) (Hickey) (Sibby)

Vicki F. Garfield
Secretary to Judge Sordahely

A RESOLUTION OF THE CITY COUNCIL OF Newtok REQUESTING THE MEMBERS OF THE SENATE RULES COMMITTEE AND THE ALASKA STATE SENATE TO TAKE APPROPRIATE ACTION TO ALLOW SENATOR GEORGE HOHMAN TO CONTINUE TO REPRESENT THE CITIZENS OF _____, THE YUKON-KUSKOKWIM DELTA AND STATE OF ALASKA.

WHEREAS, Senator George Hohman has been a strong advocate for the people of Newtok and the Yukon-Kuskokwim Delta for seventeen years; and

WHEREAS, Senator Hohman has demonstrated a complete understanding of the problems facing all Alaskans in this time of State-wide transition, and

WHEREAS, Senator Hohman has worked diligently with insight and compassion throughout the years, to resolve many of the problems related to the transition of a culture to the Twentieth Century, and

Whereas, Senator Hohman has tirelessly assisted City of Newtok in planning to meet the demands of the future for City of Newtok the Region and the State of Alaska, and

WHEREAS, the City Council of the City of Newtok recognizes and appreciates the support Senator Hohman has provided throughout the years,

NOWHEREFORE BE IT RESOLVED, that the Newtok City Council requests the members of the Rules Committee to carefully consider the effect of their decision on the people of the Delta and their future, and

BE IT FURTHER RESOLVED, that the Newtok City Council respectfully requests the Senate Rules Committee and the Alaska State Senate to take appropriate action to allow Senator George Hohman to continue to represent the citizens of Newtok, the Yukon-Kuskokwim Delta and the State of Alaska as he has done so admirably for the past seventeen years.

PASSED AND APPROVED:

John Charles
MAYOR

ATTEST:

Bernice Johnson
CITY CLERK

1/21/82
DATE

LAW OFFICE
WILLIAM T. COUNCIL
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WILLIAM T. COUNCIL
THOMAS E. WAGNER

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ALASKA STATE LEGISLATURE
TWELFTH LEGISLATURE -- SECOND SESSION
SENATE RULES COMMITTEE

In the Matter of
SENATOR GEORGE H. HOHMAN, JR.

REPORT OF SPECIAL COUNSEL

On January 19, 1982, pursuant to referral by the Senate President, the committee commenced hearings to determine if there is cause for the Senate to take action against Senator George H. Hohman, Jr. as a result of the December 24, 1981 jury verdicts finding him guilty of the charges of bribery and receiving a bribe, and to determine what recommendations for action the committee should make to the Senate.

Evidence Before the Committee

During the first hearing on January 19, the committee decided to receive, as evidence on the facts and circumstances which resulted in the jury verdicts, the record of the jury trial leading to those verdicts. In addition to the full record of the proceedings at Senator Hohman's jury trial, a summary of the evidence in that record supporting the jury's verdicts prepared by the Criminal Division of the Alaska Department of Law is part of the record in these proceedings. The committee has also heard testimony from Senator Hohman and other witnesses on his behalf and from his attorney.

It is submitted that after a review of the trial record it must be concluded that there is a substantial factual basis for the jury's verdicts. Accordingly, there is no reason why those verdicts should not be accepted by this committee in establishing Senator Hohman's guilt of the crimes of bribery and receiving a bribe. It is also submitted that the facts set out in the trial record constitute a separate basis from which to conclude that Senator Hohman committed those crimes.

Senator Hohman's Duties and Violation of Those Duties

When Senator Hohman was installed in his position of public trust, he swore to an oath, required by the Alaska Constitution, to "faithfully discharge his duties as Senator to the best of his ability". Alaska Constitution, Article XII, Section 5; AS 24.05.060. Senator Hohman, as does any Senator, has two preeminent duties, the duty faithfully to protect the interests of his constituency and the interests of the public at large, and the duty to preserve the integrity of the Senate and the public's trust in that body. Without question, accepting money in exchange for his vote and offering money to another legislator to influence his vote strikes at the very heart of his duties to the public and the Senate.

Recommended Sanction

Based upon Senator Hohman's offenses, the Senate may impose the ultimate sanction of expulsion. The Alaska Constitution

provides that each house of the legislature "may expel a member with the concurrence of two-thirds of its members". Alaska Constitution, Article II, Section 12. In a similar fashion, the United States Constitution provides that "each house may . . . with the concurrence of two-thirds [of its members] expel a member". U.S. Constitution, Article I, Section 5, Clause 2. It has long since been established under the United States Constitution that "the right to expel extends to all cases where the offense is such as in the judgment of the Senate is inconsistent with the trust and duty of a member". In re Chapman, 166 U.S. 661 (1897). See also, U.S. v. Brewster, 408 U.S. 501 at 522 and 541 (1972). It is submitted that the courts of this state will uphold the Senate's power to expel, particularly when the offense, as in this case, so directly violates a Senator's sworn promise to honor and uphold his duties to the public and to the Senate. It is clear that the framers of the Alaska Constitution intended this result. Alaska Constitutional Proceedings at 3868 - 3869.

Senator Hohman has argued that this committee's action is "precipitous", and that no action should be taken until he has exhausted all of his appeal rights challenging the jury verdicts. This argument confuses the different roles of the court and of the Senate and ignores the rights that this committee, and the Senate, are bound to protect. The trial court and the jury protected Senator Hohman's rights during the trial. The appellate courts will continue to protect his rights during his appeal. He was tried and found guilty of bribery by a jury of his peers. Based upon the evidence

presented, the jury found him guilty beyond a reasonable doubt, the highest standard of proof. Senator Hohman was represented by his attorneys and had full opportunity to present evidence in his behalf and to confront and cross-examine witnesses against him. The appellate courts will make certain that Senator Hohman's right to a fair trial, and his right to be judged by a jury unswayed by passion or prejudice, are protected.

This committee has also been mindful of Senator Hohman's rights. As the chairman of this committee has stated, Senator Hohman must be given adequate notice of all proceedings affecting him; must be permitted to attend all proceedings and allowed the assistance of legal counsel; and must be given an opportunity to be heard, to present witnesses in his behalf and to cross-examine witnesses against him. Before voting to recommend or impose any sanction, the committee and the Senate must ascertain that there is a "rational evidentiary basis" for the action taken. Bond v. Floyd, 385 U.S. 116 (1966); Powell v. McCormack, 395 U.S. 486 (1969).

But there are rights other than Senator Hohman's that must be safeguarded, rights which are not at issue and therefore will not be protected in the court proceedings on the bribery charges against Senator Hohman. Those rights are at issue only before the Senate and this committee, and the committee and the Senate are bound to protect those rights. They are the rights of the public to be protected from lawmakers who would act upon purely selfish motives and contrary to the public interest, and the right of the public to have high

public offices filled by persons who will not violate the public trust, and the right of the Senate to preserve its integrity.

Based upon the evidence presented at trial, and alternatively, based upon the jury's verdicts finding Senator Hohman guilty of bribery, it is the recommendation of the committee's counsel that the committee find that Senator Hohman has committed acts which constitute a breach of his oath of office, render him unfit to represent the public interest or to serve in the Senate, and violate the public trust and duties of a Senator.

It is the further recommendation of committee counsel that this committee propose a resolution for the expulsion of Senator Hohman. The jury's verdicts, and independently of those verdicts the evidence before this committee, clearly establish that Senator Hohman has intentionally violated the most fundamental of his duties, which are to safeguard the public trust and to preserve the integrity of this body.

January 30, 1982



William T. Council
Special Counsel

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135

SENATE RULES
STANDING COMMITTEE
May 3, 1982
1:15 p.m.

Members Present: Senator Tim Kelly, Chairman
Senator Frank Ferguson
Senator Bob Ziegler

Members Absent: Senator Ed Dankworth
Senator Jalmar Kerttula

COMMITTEE CALENDAR

SB 135 "An Act relating to motor vehicles and carriers; and providing for an effective date."

WITNESS REGISTER

Shirley Willford
S. Alston, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Timothy Gunderson
Alaska Truck Owner Operators Cooperative Association
704 Salcha, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Larry Michou
Alaska Transportation Commission
Suite 1000, 338 Denali, Anchorage, Ak
No Phone provided.
Position Statement: Testified on SB 135.

Steve Willford
SR Box 50233, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Jerry Colrud
Alaska Truck Owner Cooperative Association
Box 34, Healy, Ak 99743
No Phone provided.
Position Statement: Testified on SB 135.

Ted Harris
Alaska Truck Owner Cooperative Association
SR Box 71140, Fairbanks, Ak 99701
No Phone provided.

Position Statement: Testified on SB 135.

George Carter
Owner/Operators
P.O. Box 55121, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Douglas Carter
Owner/Operator
North Pole, Alaska
No Phone provided.
Position Statement: Testified on SB 135.

Jack Wiedelo
Owner/Operator
7248 Lurich Drive, Anchorage, Ak 99507
No Phone provided.
Position Statement: Testified on SB 135.

Bob Urbon
Owner/Operator
301 Erceg Street, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Mrs. Marion Fishell
Owner/Operator
SR Box 30788, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Bob Keeffe
Alaska Owner/Operator
No Address or Phone provided.
Position Statement: Testified on SB 135.

George Rouse
Northern Tariff Research Limited
Fairbanks, Ak 99701
479-3361
Position Statement: Testified on SB 135.

Glenn Kent
G & R Landscaping
Anchorage, Ak
349-2413
Position Statement: Testified on SB 135.

David Glover
Polar Fuel Supply
Delta Junction, Ak
No Phone provided.
Position Statement: Testified on SB 135.

Ted Maklin
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No Phone provided.
Position Statement: Testified on SB 135.

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SR Box 60378-A, Fairbanks, Ak 99701
488-2143
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1207 19th, Fairbanks, Ak 99701
456-2155
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El Sandre
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SR Box 60884, Fairbanks, Ak 99701
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Position Statement: Testified on SB 135.

H. Russel Painter
Lynden Transportation
3027 Rampart Drive, Anchorage, Ak 99501
No Phone provided.
Position Statement: Testified on SB 135.

C. Robello
Owner/Operator
1900 E. 53rd, Anchorage, Ak 99507
No Phone provided.
Position Statement: Testified on SB 135.

T.J. Thrasher
Alaska Trucking Association
3443 Minnesota, Anchorage, Ak
No Phone provided.
Position Statement: Testified on SB 135.

John Crillard
Four Star Terminals
P.O. Box 6589, Anchorage, Ak
No Phone provided.
Position Statement: Testified on SB 135.

Jim Doyle
Weaver Bros. Inc.
Box 582, Kenai, Ak
No Phone provided.
Position Statement: Testified on SB 135.

Joe Gilbertson
Big State Equipment
2.5 Mile Farmer's Loop Road, Fairbanks, Ak 99701
No Phone provided.
Position Statement: Testified on SB 135.

Senator Charlie Parr
Alaska State Legislature
Pouch V, Juneau, Ak 99811
465-4907
Position Statement: Testified on SB 135.

PREVIOUS ACTION

SB 135 Please refer to S. Finance Committee
04/28/82. Please refer to S. Transportation
Committee minutes 02/09/82.

ACTION NARRATIVE

Tape #
Recording
Number 0000

Senator Kelly, Chairman called the meeting to order at 1:15 p.m. with member Senators Ferguson, and Ziegler present. Senators Kerttula and Dankworth were absent. Senator Kelly brought SB 135 before the Committee for consideration and proceeded to explain the purpose of the meeting.

Number 0027

Senator Parr testified in support of the Alaska Transportation Commission. Owner/Operator situation has gotten worse and SB 135 is an attempt to alleviate some of these problems. This problem has arisen because private carriers without meeting the qualifications of the common carriers have been competing with them. That's section 3 of the bill. The... unfortunately, Mr. Chairman, there were two mistakes in the drafting of this bill and I do believe that the Committee members do have two proposed amendments. One of those was put in by the Legislative Affairs draftsmen and I haven't been able to find out why it was thrown in but that would be the words "construction contractor operators" on Page 1, Line 19. The other one was not the draftsmen mistake but ours in deleting the words "with or" when it comes to hauling with or without compensation. That makes the bill go broader than intended and that point has been

brought to our attention so I am asking the Committee to consider that amendment. Mr. Chairman, in order to spare your time and

also because I have a Committee meeting I'll stop here and answer any questions.

Number 0060

Senator Kelly: Senator, on the proposed amendment. Did you want both of the amendments made? The one that says "and construction contractor operators"?

Number 0061

Senator Parr: Yes, sir, that's a deletion actually.

Number 0062

Senator Kelly: You do want both of those amendments though on page 2.

Number 0063

Senator Parr: That's the one that allegedly the drafters put it in. We did not ask for it.

Number 0063

Senator Kelly: Senator Ferguson.

Number 0063

Senator Ferguson: I'll make the motion now, I know it's premature but I do have to leave and at this time. I move that we adopt Senator Parr's two amendments to what I hope will be a Committee Substitute.

Number 0069

Senator Kelly: Any objections, so done. Were there any questions for Senator Parr? Thanks Charlie.

Number 0070

Senator Parr: Thank you very much.

Number 0071

Senator Kelly: Let me call the attention of the Committee to the fact that we received a, I guess it was telexed today, a petition from these folks who are mainly in the Anchorage area approximately 170 names in favor of SB 135. We didn't have it copied because it is difficult to read, you can't read many of the names, but we do have this petition. Do we have the testimony sheet, Tim, Jane? Let me just say that we plan to go as long as we can today, that means till at least 3:00 p.m. We have everybody who has conflicting meetings at 3:00, Senator Parr has HESS Committee meeting and I want to attend that also. So we can go on till 3:00 p.m. and I would hope that everybody who testifies could keep it after you say all that you have come to say, could keep it

relatively brief, if possible. Okay, the first person to testify is Shirley Willford. Shirley.

Number 0086

Shirley Willford: Mr. Chairman and Senators, I can speak volumes on this issue so I just preferred to put my words in a statement because that might shorten that up a little. There are those here today that are going to try to make this a union problem. I am not going to leave the union out of my statement as in 1976 virtually every company was union. I became involved and active in owner/operators problems in 1976 as I am married to one of the good old boys. About that time I took a concerned interest in the fact that these revenues were diminishing while hours worked and miles driven were not. The diminished revenues were showing up on lease settlement sheets as back charges under the label of wages, benefits, sick leave, vacation pay and of course pensions, state and federal contributions, virtually the complete wage package. I began researching statutes and regulations under the Alaska Motor Carrier Act and labor statutes trying to determine how this was being legally accomplished. I was stunned to find that upon carrier representation the Alaska Transportation Commission had taken upon itself the authority to repeal ten regulations pertaining to vehicle leasing, however, 3AAAC64070 directed to driver compensation was seemingly intact. I would like to at this time direct your attention to Document 1, page 1 and 2. In 1979, three years after the wage package, charge backs had begun. A document surfaced in an attempt by the ATC to legalize and adopt an amendment to 3AAAC64070 including the driver's wages. Document 2, this document submitted by the ATC that again at carrier representation eleven to be exact 3AAAC64070, had been waived exempting the carriers from enforcement of the regulations for all of that time. I found no previous published documentation. I was personally affronted by the ATC explanation of their action, Document 2, Page 3, Paragraph 2, as my husband had never charged any company for one hour of labor that he didn't produce double the work. In fact, as some of the

opposing gentlemen here can attest to, there were many people here during the pipeline and I am sure there were many abuses in hours of labor per trip but I would like to ask. By what authority did ATC have the right to deal with a labor problem and penalize every driver in Alaska? By allowing this exemption it was a direct interference by a state agency with the personal right of collective bargaining. Federal law prevents the union from negotiating the lease for the truck yet ATC through the wage package directly into the lease this gives the carrier total control of the owner/operator. It became virtually impossible for the bargaining unit to negotiate wages and benefits the driver was forced to pay from his lease revenue. It put the owner/operators in the position of having to take from his own pocket to put in the other. With an increase in wages and benefits he would under law be forced to pay for more in state and federal contributions, union benefits and working dues which would far exceed the raise in wage even though he was not working more hours. We would... who would ever consider a strike for that prize. The carriers with the help of the ATC knowingly reduced the bargaining unit to nothing more than a means to guarantee employment status and seniority on the Board. In so doing our April 3 repaying of approximately 50 to 57% of the revenue as opposed to the normal 25%, as will be addressed by another witness for it also diminished the power of the owner/operators to negotiate a lease. I do not pretend to know how our State Legislature perceives an unpublished exemption of a state regulation under Alaska Statutes, directly interfering with collective bargaining but some of us call it collusion, some conspiracy, I call it unfair labor practice. June 2, 1980, six months after receiving many letters of objection on file at ATC, the Commission adopted the amendment to the amendment page 5, Document 1. Supposedly legalizing six years of fleecing the owner/operators of their wage and benefit package. Perhaps that is a strong word but it is difficult to address it by another as I challenge the legality and the morality of the underhanded way it was accomplished. The Alaska Motor Carrier Act clearly stated under 3AAAC64070

that driver compensation, Document 1, page 2, shall not be a consideration under the lease and I do question the motives and the judgement of the ATC. The repealing of all the regulations has created many more serious problems and financial impositions which I shall leave to other witnesses to define. Any owner/operator appearing before this Committee claiming they like the present program is either unaware of the changes in regulation, afraid in losing their job, or less than intelligent. The arrogant behavior and total disregard for the citizens of Alaska as opposed to big money interests by one of our state agencies which admits the owner/operator is literally a servant to the carriers, has forced them to return to the State Legislature and appeal to equal protection under the law and a regulation in the form of SB 135, hopefully preventing total financial disaster for all.

Number 0168

Senator Kelly: Thank you Shirley. Are there any questions? Pappy? Thank you very much.

Number 0170

Rep. Moss: No questions.

Number 0171

Senator Kelly: Tim Gunderson.

Number 0172

Tim Gunderson: Mr. Chairman and members of the Committee my name is Tim Gunderson, I am the President of the Alaska Truck Owner/Operator Cooperative Association and we are supporting SB 135 particularly in the first section that relates to owner/operators and we're one of those few groups in this day and age who are coming forward and asking to be regulated. There is good reason for asking to be regulated because by the absence of regulation today we are absolutely regulated beyond our ability to deal with the situation. Owner/operators, that is people who own and drive their own equipment presently, at the present time, cannot operate that equipment for anyone other than a common or contract carrier. It is against the law for an owner operator to take his truck and go out in the general public and offer to haul freight for a price. You must lease your equipment and operate through a common and contract carrier. The common and contract carrier is very very protected industry, protected by

chapter 10 of the Alaska Motor Freight Carrier Act and the Our problems basically revolve down to the single fact that we have nothing to say in our industry in regards to what the lease revenues are going to be, we all pay all of our own wages and benefits if we happened to be involved, or lease to companies that have union contracts for employees. We pay all of those costs, we pay all workman's compensation costs, we are the people who make the investments in the equipment, and we are responsible for all the maintenance of that equipment. We are responsible for all legalities of it. Some carriers even prorate the costs of their public liability insurance that they are required to pay by law and subtract from the owner operator's revenues. It basically boils down to a situation where the common and contract carrier using the owner/operators as able to enter into any kind of competitive practice if it so desires and pass any lose along to the owner/operator. At the time of the writing of the Act in the State of Alaska they were very few owner/operators, quite frankly, up until the advent of the pipeline there were very few owner/operators. As the pipeline began to unfold and lots of equipment was required, the availability of equipment soon ran out and the common and contract carriers began turning to owner/operators to supply that equipment need. At this time the majority of the leases were based strictly on lease of the equipment itself and the services of the driver were reflected separately. As time progressed on and the owner/operator became more and more of a participant in the field the ATC permitted the combining of the rentals for the truck and the services of the driver together. There wasn't anything wrong with that at the time, because the revenues being paid to the owner/operator were high enough to cover the labor costs and to maintain the equipment and provide the service. However, when the pipeline wound down there were many many carriers and very little work. All the carriers competing for this work began to file lower and lower tariffs and in return paying the owner/operator less and less for the use of his equipment and for his services. Ultimately it reached the point during the

highest period of inflation in this nation's history following the pipeline that the owner/operator was getting less and less and the cost of operating was going up and up. Finally it began to reach a point where a man was required to turn in less time than he was actually working in order to hide more money in the truck. It is a very complicated process, but definitely there are definite ways for an owner/operator to keep money out of state coffers and put it into the truck and hide it in that manner. In fact today if you expect to operate your piece of equipment under the present rates you are going to have to do that. It is not possible to receive the rates of pay that a driver would get and still have enough to operate the equipment. As a result owner operators went to the carriers and attempted to negotiate contracts. Some were successful, others were not. In most cases they were not. Some carriers absolutely refused to negotiate whatsoever, they simply write a lease, hand it to you, tell you to sign it, if you don't sign it you're down the road. We have examples of that here today to testify. We feel that because of the predominance of the owner/operator in the transportation industry now primarily the over the road freight the owner/operator now carries about 90% of that freight the other 10% being carried by company equipment with company drivers. That number as we estimate it is only over the road freight that I'm speaking of at this time amounts to approximately 500 owner/operators of that number 250 are underemployed and approximately 150 of that 250 is totally unemployed. This means that a man who has a \$100,000.00 investment in his piece of equipment is not only unable to work but is carrying the burden from 2 to \$4000.00 in truck payments and insurance is \$5000.00. Shop rents obviously a very difficult load to bear. Almost in direct proportion is a large influx of owner/operators from outside replacing the Alaskan owner/operator. Most Alaskan owner/operators up until September were long term residents who had lived in Alaska long periods of time, have entered this industry, have significant capital investments as well as homes and families. In the process of negotiating leases the carriers that chose not to negotiate over

the leases went outside and actively recruited owner/operators recognizing there is an economic problem there.

Number 266

Senator Kelly: Let me break in for a minute here, Tim. How did they actively recruit?

Number 267

Tim Gunderson: Okay, to witness or testify that I actually saw advertising, I can't do that, however I do have people in our association who traveled outside that saw that material themselves. An example is that some of the truck stops in the Lower 48 have large lighted signs where they write messages to owner/operators telling them that such and such a company is hiring owner/operators or there is a need or a load over here or that type of thing. There was some advertising done in that manner according to the report stating that there was a need for owner/operators in Alaska and in some cases stating a rate. Well, to an owner/operator on the outside who operates with a piece of equipment maybe only 80% as expensive as an Alaskan piece of equipment because of the different circumstances that they run under. That is operating over the Interstate and over pavement and in a less harsh climate and without the extracts and requirements to carry more weight and so on. The rates that are being paid to the Alaskan owner/operator look very good to them. However, they don't understand the expense of living in Alaska, don't understand the expense of operating a truck in Alaska and being severe economic conditions of their own come here looking for a way out. Expecting to do well by the rates. It takes some time operating here in order to learn the true costs over the long haul in order to provide a piece of equipment to haul the freight. Also...

Number 295

Senator Kelly: Excuse me. Pappy?

Number 296

Rep. Pappy Moss: Mr. Gunderson, I have heard you mention the third axle. Can you use that third axle in Canada and the Lower 48 if you carried your equipment down that way and perhaps haul loads back to Alaska?

Number 298

Tim Gunderson: It would be very difficult to do that. In most cases, at least I believe in British Columbia, traveling through

British Columbia which you have to go through to get to the Lower 48, many times require us to take the tires right off the axle. Well that axle weighs 2,000 pounds added on to an already heavy type Alaskan tractor which makes it difficult to bring back across with a load from outside.

Number 305

Rep. Pappy Moss: Then, what you're saying is that it is not economical for you to use your three axle type of equipment to compete with any Lower 48 trucking organizations or truck owner/operators to bring stuff into the state. In other words, you are at an unfair disadvantage with Lower 48 truck operators, is that what you're saying.

Number 310

Tim Gunderson: That is definitely true. In order to haul profitably at the tariff rates and at the standards the carriers have set for us, we have to equip our equipment in an entirely different manner than is used outside. A common estimate of what it would cost to take an Alaska tractor and go to the states to be able to haul in any of the 48 states is approximately \$11,000.00 modification that would include shortening the tractor and getting rid of the fourth axle and reducing weight in every place possible. We, because of the steep grades and rough roads that we operate over we have to purchase heavier duty rear ends which weigh more and cost more, heavier transmissions that cost more, larger horsepower... there is... the list of reasons why Alaska equipment is not suitable in the Lower 48 can go on forever.

Number 324

Rep. Moss: Mr. Gunderson, what you're telling me is that you can't use your equipment down there. Is it required then for the Lower 48 type of equipment to be brought up to this same kind of configuration for them to be able to operate up here. In other words, what I'm saying is do they have to put on a third axle on up here in order to get these contractors to get these contracts that they are talking about.

Number 331

Tim Gunderson: No, as a matter of fact what's happening at the present.. right at the present time since this situation began to develop in about October. The carriers

are now, some of the carriers. I don't want to give all carriers a bad name here because it's not true. It's only a few carriers. They are leasing equipment from owner/operators that they previously refuse to lease from us. This is two axle equipment, equipment without sleepers, short wheel base, and that type of thing.

Number 341

Rep. Moss: I just want to get that on the record.

Number 342

Tim Gunderson: Our difficulty is that we are an absolute captive group of businessmen who have absolutely nothing to say about the amounts of money that we're paid the types of equipment that we are going to drive or the conditions under which they are going to be operated, when they are going to be operated. We're utterly dictated all the time yet we are the people who carry the largest capital interest in what we're doing. The owner/operator investment in equipment alone runs into the 100's of millions of dollars in this State. It's ... the owner/operator needs recognition as a integral part of the transportation system. It needs regulations that protect it from unfair and destructive competitive practices and that's what we have now. We have a very protected few individuals or private businesses with a profit motive who dictate to a large group of Alaska citizens how they are going to live their lives and how much money they are going to make. I have some fears about the Alaska Transportation Commission myself developing regulations. However, I have a lot more fear of a group of individuals with a profit motive dictating the circumstances under which we are going to work. That's why we are asking now to be recognized as a form of carrier. We don't want to enter out into competition with the common carriers in any way, shape or form. We don't want to be recognized as common carriers, we want to be recognized as owner/operators who lease their equipment to common and contract carriers for their use in the industry.

Number 362

Senator Kelly: Anything else? Are there any further questions.

Number 363

Rep. Moss: I have one more question, Mr.

Chairman. SB 135 in section 3, page 3, line 1. There is a deletion that the bill will do that is "leasee or bailee". Do you have any comments to make by that and the deletion of the words "leasee or bailee". Could you kind of explain what transpires there, if "leasee or bailee" is deleted from the statute.

Number 370

Tim Gunderson: I can give some information on that, however, owner/operators are not permitted to operate in private carriers. Therefore, it is by virtue of the fact that that's one class of carrier that I understand a little bit about, but as far as owner/operators or this Association making any statements about that. I would only see that what's there now is probably..... As far as I can see it, the way the law is written right now, if the regulations were enforced on the laws that exist as far as the private carriers go the problem would probably be solved.

Number 381

Rep. Moss: In other words, basically this particular section gives you no heartburn then.

Number 381

Tim Gunderson: No, I have basically have no opinion, I have a personal opinion that the Association would not make any statement either way other than the existing laws were enforced by the ATC regarding private carriers I believe the problem that now exists would probably go away.

Number 389

Senator Kelly: Any further questions? Thank you Tim.

Number 390

Senator Kelly: Just a couple points, if anybody has any suggestions or amendments to the legislation will they please bring them up while they testify. Secondly, I don't know if we are going to make it by 3:00 p.m. If we don't make it by 3:00 p.m. I'm presuming we can get the okay to use the room, we'll come back here at 5:00 p.m. tonight and go on until we do finish, Most of you have come a long way to testify here. Okay, the next one then would be Steve Willford, did you want to testify?

Number 398

Steve Willford: Mr. Chairman and Senators I came here because I support SB 135. My name is Steve Willford, I am an owner/operator

and I have lived in Alaska, I'm from Fairbanks and I have lived there for about 11 years. I would like to say that I believe that where this Senate Bill, first section deals with owner/operators coming from the outside. I would like to say that I feel that people from the down below should be welcome to work where they choose but I think when it affects people who have made Alaska their permanent home and it affects the economic situation in Fairbanks and all of Alaska that it can be detrimental. Also, I would like to say as an owner/operator we have been forced to live with whatever the companies choose to let us have they have chosen what amounts were to be paid and so forth. We have had no say in it and I think an owner/operator is forced to bear the brunt of the economic burden of the carrier during the transportation of the freight and they also are taking the risk of getting the load there and it seems that's almost too much to bear when the companies share very little, at least a small part in comparison to our portion of the transportation of that freight. I feel that, myself, I am just a small operator, I only have one truck and most owner/operators only operate one truck and I benefit only from the income that that one truck can generate, but it seems that each company can reap the benefits from a number of trucks, usually a large number of trucks and they really are taking a small share of the operation. I also feel that.... I've kind of... I'm one of the owner/operators that has stood up for my rights in this issue and because I have sacrificed my livelihood and I have been replaced by owner/operators from down below, or I should say most of which are from down below and that's the reason that I came to make my statements before this Committee. That's all I have to say.

Number 447

Senator Kelly: Okay, thank you Steve. Are there any questions? Thank you very much. I have a question of Tim Gunderson. Tim, is there any increase in the number of common carrier owned trucks and drivers they're putting on or is all the difference being taken up by owner/operators coming up from the outside?

Number 456

Tim Gunderson: I am not sure I completely

understand the question. Are you asking if there are new common carrier authorities being granted in Alaska?

Number 457

Senator Kelly: No, you said something to the effect that 90% of the freight was being hauled by owner/operators and the other 10% were being hauled by company trucks. Have there been any significant increase in the number of or percentage of, say, company trucks and company drivers.

Number 462

Tim Gunderson: No, I think that definitely the continuing increases in owner/operators.... Actually the rates are so low at this point that a company operation, that is company owned equipment, company drivers would have a difficult difficult time competing in the (indisc.) although they are some that do.

Number 470

Senator Kelly: So, that when an Alaskan can no longer operate profitably and they park their rig, then that spot will normally be taken by an outside operator. Is that the message?

Number 472

Tim Gunderson: Oh, absolutely yes. just virtually for everyone that you can identify coming across the border across the Yukon River there's another lost Alaskan job that correlates to it.

Number 476

Senator Kelly: Okay, thank you. Jerry Colrud.

Number 481

Jerry Colrud: Mr. Chairman, Senators, Representatives, ladies and gentlemen, my name is Jerry Colrud, I would like to briefly tell you something about myself. 16 years ago I came to Alaska with my wife and six children and very broke. I settled in Healy in the spring of 1967 employed at Usibelli coal mine as a truck driver. I soon saw a need for a grocery store and started one. Since that time I have expanded some I now own and operate the grocery store, camp ground, a laundry mat, Jerry's Automotive, a propane delivery service and a school bus contract all located at Healy. I am a charter member of the Healy Valley Lions Club and I have worked my way up through all of the chairs and I am the zone chairman. Unfortunately, I met myself coming and going

and had to give up my zone chairmanship. This past fall I became a member of the Fairbanks Elks Lodge. Because trucks are and have been my first love, I sold a back load dumptruck operation, a wrecker service, and became an owner/operator. During these years I was embezzled forty thousand dollars in contracts in cancer in which it took four years to recover. Now for reasons already outlined and they'll be outlined further my previous testimony. Nothing has come nearer to my total undoing than this first love of mine. I and several other owner/operators are having trouble with the reconciliation of our weigh bills and paychecks. My wife has written to the K&M Saint Paul, Minnesota asking for an explanation. We feel that they still owe me several hundred dollars, I have no idea how much they really owe me, if in fact they do, I just there is no way that I can or she can figure out these weigh bills the way they are put together. They will not respond to my letters and the last time we sent a letter by registered mail they still, they signed for it acknowledging they received it, but still no response. You now Mr. Coghill told me many years ago, Jerry, if you want to succeed in business you better get involved in politics. Now right he is. Now not only am I on the receiving end of freight shipment but I am also actively engaged in transportation as an owner/operator. I strongly urge you to support SB 135. Thank you.

- Number 529 Senator Kelly: Pappy.
- Number 530 Rep. Moss: Thank you Mr. Chairman. Mr. Colrud, I'll ask you the same question I asked earlier. Does the deletion of "leasee or bailee" on page 3 of (SB)135, does that have any effect on your operation?
- Number 534 Jerry Colrud: Yes, sir it does. I have a propane service....
- Number 535 Rep. Moss: Would you explain that please.
- Number 536 Jerry Colrud: I feel that at some later date I may decide to haul my own propane from Anchorage or Kenai actually to Healy and then on in by delivery trucks and out into the field. Section 3 of that bill really did bother me although it slipped clear by me

when I first read it. It just... something didn't ring there I didn't know what it was. Later on after someone else as a matter of fact pointed it out to me and then it really struck home. Now with the deletions that have been incurred I feel that it is satisfactory.

Number 548

Rep. Moss: Well, let me ask a question then. If perhaps it gives you a problem why can't you just raise your fee to what you get for your propane, for example, and compensate you for that. Is that illegal in your interpretation on this statute.

Number 552

Jerry Colrud: Yes sir, it is. It is my understanding that it is illegal for me to add freight costs into my wholesale costs therefore raising my retail prices. Once again competition just absolutely won't allow it.

Number 558

Rep. Moss: In other words, in your opinion that "leasee or bailee" should be left in the statutes as it reads now.

Number 561

Jerry Colrud: As it reads right now, yes sir.

Number 562

Rep. Moss: Thank you, Mr. Chairman.

Number 563

Senator Kelly: Ted Harris please.

Number 567

Ted Harris: Chairman, gentlemen, I have a brief written statement if you don't mind. I want to say before I start reading it that I strongly support SB 135 and I support new changes in the third section which puts back the stricken language. I have no quarrel with the private carriers I think they ought to be allowed and recover their transportation costs without causing them to go out of business. By changing and waiving regulations which all but negated union contracts it also made virtually impossible to negotiate a lease. The best example of that issue is the attempt by Weaver Bros. owner/operators in late 1976. Their trucks were laid off and setting idle for about 14 months. I didn't work for Weaver Bros. at the time but I do remember when this happened and I remember the question and arguments that were raised over this. The carriers simply offer a lease on a take it

or leave it basis. In other words, if you don't sign you don't have the job. You can't work your machinery. In February of 1979 the ICC adopted a vague ruling requiring all charge backs, this includes workman's comp, all your employer contributions to the federal tax laws and every chargeback they could think of must be clearly stated in the lease. The carriers have used that ruling to literally dump all operating costs on to the owner/operator. I have documents if you care to see them later on in my folder to show where I have been charged back everything you could think of with no bargaining power the carrier can do and make excessive demands such as extra axles, paying your own weigh tickets even though we don't load our own loads, all specifically directed at the owner/operator revenues. Many of our state legislators have shown concern about state oil revenues diminishing and costs of extra employees for ATC to administer and enforce this program, this SB 135. I can only ask that the state revenues increased as our revenues decreased. Did ATC delete their staff when they repealed all of our regulations.

Number 623

Senator Kelly: What are some of the chargebacks that you feel are not incurred in the production?

Number 626

Ted Harris: We are not covered in the law they have the freedom to charge an employee for workman's compensation. We are now charged, this is now charged back to the truck. All FICA and other employee contributions to the federal income tax package. In many cases all of their wages, all of their medical benefits are charged back to the carrier. (Indisc. for the next 15 seconds.) Thank you Mr. Chairman.

Number 647

Senator Kelly: Next will be George Carter.

Number 652

George Carter: Mr. Chairman, Senator, George Carter a sixteen year owner/operator a year Alaskan owner/operator and in the prime period of income for an Alaskan owner/operator I have seen the monies go from over \$2,000.00 to the truck without any deductions down to \$1500.00 and less. It goes down progressively year by year beginning there in Alaska (indisc.) I was

appointed as one of three people to negotiate a new truck contract a year and a half ago to a company that I was leased to. At that time they were fairly receptive to negotiate with us after everybody parked their trucks. We have kept it to negotiate with them and they have refused to negotiate with people selectively. So they parked their equipment and we at that time after a week of talking to them they decided that they would negotiate. We negotiated and came to terms acceptable to us at the time. Everybody went back to work with their trucks, we had a new lease and we guaranteed that we would work that lease for a period of 6 months. At which time we would start negotiating a new lease. The time came for the start to negotiating the lease came and went. We tried to negotiate it into the lease, they refused to meet with us. Forty-five days went by, two months went by, and people who had their trucks there decided that it was time that they had something different so they parked their trucks again. This was in October and the carrier, the company selected to bring people from the outside and take our place. This time they have not settled anything yet. I feel that without this legislation we will never be able to negotiate a owner/operator lease at all.

Number 717

Sen. Kelly: Are there any questions for Mr. Carter, happy.

Number 720

Rep. Moss: Mr. Carter, have you got any idea about how many more operators, trucks to date, what are the number we are talking about.

Number 724

George Carter: I live at North Pole and work out of Fairbanks. The number of owner/operators that's in the state is what you're asking me.

Number 731

Rep. Moss: Yes sir, it is the same situation that you're in perhaps.

Number 002

Doug Carter: Chairman, Senator. (Indisc.).... you know I moved up here two years ago during the winter time which is... that's the running time and the money was fair. We went on through the winter time then there comes breakup. During breakup the

roads get bad, you have breakdowns, brake problems, tire problems, broken frames. During the summertime it is really rough. You don't get very many trips. During the summertime we tried to run real slow to keep to keep from tearing your equipment up and try to make up the money in the wintertime. It is very difficult in the wintertime when you come in for a load that the company keeps putting you off and they're.... at the end of the week then they give the freight away. So it makes it difficult in the wintertime too. And then when summertime comes back you're expenses are really high and the cost of extra axles is expensive and I go on outside are too heavy to compete outside the summertime. I feel that the outsiders are welcome to come up cause I was welcome when I come up but I equipped my truck to compete with other Alaskan natives. Tough enough to have it work and I feel that these people should be able to do the same thing. I just feel that they ought to compete with us they ought to be on the same basis as we are with the heavier equipment. I feel that SB 135 would help us in that respect.

Number 29

Senator Kelly: Doug, what happens if they come up with lighter trucks? What happens to their trucks? There must be a reason why you're spending all this additional money for heavier trucks, heavier axles.

Number 31

Doug Carter: Well, the rear ends are lighter rear ends and don't hold up as much. I had lighter rear ends and I was having constant trouble with them. They're breaking, rear ends are just not tough enough to handle the heavy load and the rougher roads.

Number 36

Senator Kelly: Are there any further questions?

Number 37

Rep. Moss: Just one question. (Indisc. but pertains to a question from Rep. Moss to Mr. Carter regarding weigh stations and third axles).

Number 42

Senator Kelly: If we don't finish here, the meeting at 5:00 p.m. will reconvene in the Butrovich Committee room which is down on the second floor in that part of the Capital. Jack? Bob Urbon? How about C.

Robello? Well, I going to come back, I just wanted to get somebody from Anchorage.

Number 46

C. Robello: Senator, first of all let me explain that I am here on another mission, now that I'm here I might as well say what I have to say it really doesn't pertain to this bill, I thought it did but we are owner/operators in another (indisc.) dirt haulers it has nothing to do with common carriers or contract carriers strictly. We are having problems with an awful lot of outside competition and permits being issued on a quick type of thing to a lot of people and (indisc.) undercut real bad on us in the City of Anchorage. This sob story with which I'm not real familiar with anything else that's aboard this bill. I just wanted to voice my opinion on these regulations and things. I think this bill is a very nice sort of thing but from what I've gathered there are an awful lot of laws in effect right now that there are no enforcement on that we are coming across on a daily basis such as signs on trucks and, like I said, these are little problems but they are problems that involve us very closely. We are basically... they are carriers, we have to call everything two letters and there are an awful lot of work that we give away in the Anchorage area or Mat-Su Borough or places we operate to people who have no licenses as a matter of fact they don't even have the classical licenses for their trucks and things like this. Now, when we are reporting things like this we report to ATC and I keep pretty close contact with the men in the field. Apparently, from what they have told me, there is only two agents in that area that have controlled from like I say this is what they have passed on from Seward to Mile 192 in the Glennallen area which they have not only discovered not only the dirt haulers, but the common carriers, the taxi cabs, the tow truck operators and everything else so they have their hands full and they're telling me that they're very undermanpowered and all we are is a police action to turn over to the Commission what their findings are. And do you accept that and the Commission has to go on further and delegate what has to be done with these people. So their hands are tied and its not helping us any at all and I'm not sure that

this is the right sequence either to come to or tell the story to maybe something can be done maybe we have to go somewhere else. I don't know but like I say as long as I'm down from Anchorage I'm only here for the day, I will voice my opinion on it and maybe we can get a suggestion or something what we can do to help our problem. I grant you, I can understand these common carriers have a problem with their tariffs and their wages and things but it's not the same problem that we have.

- Number 91 Senator Kelly: Mr. Robello, who on the Commission are you referring....
- Number 92 Mr. Robello: ATC , I am a contract carrier, I am an owner/operator plus I have other owner/operators working for me.
- Number 95 Senator Kelly: Okay. Are you going to move up front? Pappy?
- Number 96 Rep. Moss: What type of work are you doing?
- Number 97 Mr. Robello: We are strictly working by the hour for other carriers or contractors. They call us up and we deliver trucks and operators to their job and load materials for them, sand, gravel, asphalt, whatever the case may be but we are regulated by tariff, we are regulated by an awful lot of things and it is the statement of the municipality to drop everything.....(indisc.)..... we are advised, certified payroll and everything else and that's one reason that we have to keep really aware but we have other problems besides the people coming from outside we do have a problem with general contractors. Now they are under no licensing by the Alaska Transportation Commission at all. They can work for any firm they want they can rent trucks with operators to any other general contractor without any regulation whatsoever except the private carriers dicker on their trucks. But this is another bridge to cross somewhere else and we would like to find out what we have to do to start getting some of these things changed around. Getting a little backing as far as the laws that are in effect and be enforced cause we... it seems to me like the ones that are being... having the laws enforced on are the ones that have the permits and not and..... and

whatever and the ones that are getting away with it are the ones who don't have anything and it just seems like they go on and on and on and on. And I could go on and on and on too about the different little problems but these are basically are our main problems right now. We are wondering what we have to do for it...to get something... or make people aware that there is a problem, in that, in their end of it and not just with the private drivers and not just owner/operators but that we do have a problem also.

Number 121

Senator Kelly: Mr. Robello, maybe you could come down to my office after the hearing adjourns. We are trying to stick pretty close to SB 135 as we can, but I would be more than happy to talk outside of this hearing, so, we're down on the first floor as soon as we get out of here if you'll come down there we'll try to figure out something.

Number 127

Mr. Robello: Okay. Thank you very much.

Number 128

Senator Kelly: Mrs. Marion Fishell, did I pronounce that right?

Number 130

Mrs. Fishell: Perfect. I am Marion Fishell from Fairbanks, my husband is an owner/operator which means that I own half of that truck and I also have professional points of interest. Mr. Chairman, I have a hand written note from my husband and he gave me strict orders when I left home yesterday afternoon that this was to be read exactly like he wrote it. My husband was a line driver or operator for K&W Trucking Company. Beginning in August 07, 1979, for every month that I hauled one or more loads of the freight, K&W Trucking deducted from my money due to my truck 8 hours per month at \$22.00 per hour to be held in reserve for sick leave in case of sickness. Between August 7, 1979 and September 10th of 1982 my husband terminated from K&W. This consisted of 24 days at 8 hours a day at \$22.00 per hour for a total of \$4,224.00. When I asked for K&W to return my monies from the account that was never used..... my husband never used his sick leave account is what he's saying... they returned 1,232.00 this leaves a balance still owing of \$2,992.00 to be returned to me to my truck. As of this day

K&W has refused to pay the money back and they say it is in our truck lease that it will be returned. Also, as a condition of K&W's leasing a tractor, the owner/operator has to furnish 12 tie downs, chains, and 12 binders, the company used these to secure loads that we haul. When I terminated, the company then refused to return the chains and binders. The price at today's market is in excess of \$1,000.00. And that is signed by husband Leonard W. Fishell, I have one other short statement. As it shows there, my husband and I have Raven Trucking it is just because we have a name on our trucking account. My husband is an owner/operator and he does dispatch to common or contract carriers he does not work out on his own. As of today both my husband and I both approve of SB 135 with one exception. I am sure that I am not putting this into the right words but my husband and I would prefer to see the "with or" left in and the "leasee and the bailee" left in on the private carrier.

- Number 163 Senator Kelly: Hang on a second Mrs. Fishell. The "with or" , we're talking about section 3 on Page 2.
- Number 168 Rep. Moss: (Indisc. but pertains to a question he asked Mrs. Fishell)
- Number 170 Mrs. Fishell: It needs to... whatever you want to call them, or returned... we will fully support SB 135.
- Number 171 Senator Kelly: The amendment that we have already adopted has taken care of the "with or", but we haven't done anything about the "leasee or bailee" problem yet. Does anybody here that still hasn't... would still like to testify?
- Number 176 Mrs. Fishell: Mr. Chairman. Are we going to have time to address the pilot part today or shall we pass it.
- Number 179 Senator Kelly: We are not holding a hearing on that bill today. Any further questions. Very good. Larry Michou? Larry Michou, Executive Director of the Alaska Transportation Commission. I know you are here to testify later but I'd like just to ask you about this one area about the "leasee and bailee". Could you tell us what

that one does if you take this out .

Number 185

Larry Michou: Yes, Mr. Chairman, the question of "leasee or bailee" is terminology that is in the ICC for private carriage. I understand that it is in most of the Commissions of Private Carriage, and the conflict that comes up is that when we are trying to determine what is private carriage and what isn't the terms 'leasee and bailee' are very broad. Basically anyone that controls the load... moving it... can claim to be the bailee and therefore responsible for it but basically you have an example of a private carrier would be a local appliance store that delivers a stove or refrigerator and charges you ten dollars or fifteen for delivery. That is private carriage and it is incidental to the nature of business if you're selling appliances. What you find is buy-sell operations where the only time the carrier moved the commodity or the product is when he has already sold it. Actually he never buys it he just controls it during the time of transportation. Under the broadest terms of "leasee or bailee" that can be construed as private carriage. By the elimination of the term you're removing a small portion of the illegal private carriage operation, you're encouraged to eliminate.

Number 207

Senator Kelly: Does it do any great damage to the bill if we reinsert "leasee or bailee"?

Number 209

Larry Michou: No, not particularly. There are 12 basic descriptions, a couple if you will has been in the transportation business for many, many years. The AIC hearing officers have attempted to apply to the 12 conditions. The "leasee, bailee" is just a little vagueness on the edge. It was our attorney's opinion that the removal of "leasee, bailee" really would not effect any private carriers that are currently in business. Removal of "with", basically did away with private carriage to a large extent because no one could charge any transportation costs. Like I say, it would not really bother me with the other... it would be a little helpful in some of our more ticklish proceedings if it wasn't there, but I don't fear it would stop us by

any stretch of the imagination.

Number 228 Rep. Moss: Just one question, Larry. Suppose I had a combine that I'm going to lease to somebody, for example, or rent out in Anchorage or in the Mat-Su Valley and I got to haul it from up in Delta down to the Mat-Su Valley and it's going to cost me a pretty penny. I am going to do the hauling, would this be a strict need of charging him a transportation cost to carry that down and bring it back if we took this leasee out. How would I get my transportation costs here and down that (indisc.).....using my combine thing.

Number 229 Larry Michou: You are going to use your own truck?

Number 230 Rep. Moss: It is my own truck, it is a private carrier and I haul other farm stuff for example, but I got a guy that wants to lease and I want to contract with him to use my combine in Mat-Su Valley but it's going to cost me about 700 or 800 miles transportation costs, twice perhaps, but I got to go down there and carry it down and then go down and get it back again. What happens, would I be violating any ATC regulation if I charge him a transportation fee for that my transportation costs? Now this is a problem that I have, that I see in there.

Number 238 Larry Michou: Every time I give an off the top of my head opinion I get into trouble, but I would say probably not if it was part of the lease. In other words.....

Number 241 Rep. Moss: You mean on the combine?

Number 241 Larry Michou: Yes, in other words, if you're leasing to him F.O.B. if you will, delivered, F.O.B. Palmer and you included in that lease you'd be alright. What we would be getting at is if you had the truck and your neighbor had the combine and he was leasing to somebody else. So he leased it to you only during the time that you transported it. Then you would be in violation of the "leasee, bailee" rule. As long you're moving your own goods I don't think you have a problem.

Number 249 Rep. Moss: What if I leased it to my farmer next door, or my neighbor next door so that

I could lease it to the guy in Mat-Su, you see.

- Number 251 Larry Michou: That would be, in the transportation portion, would be a violation of you remove the "leasee".
- Number 253 Senator Kelly: If we put "leasee and bailee" back in we don't have to worry about it?
- Number 254 Larry Michou: No, we wouldn't, if... as long as they get the other twelve definitions. That's a very common wording that our hearing officers are constantly having to consider when we make an accusation against someone or when they are considering what is private versus common carriage. Like I say, the suggestion was.... is, how do we remove some of the more flagrant violations in private carriage? In our opinion that was one of most real problems.
- Number 260 Rep. Moss: In other words, if the equipment belonged to me though and I hauled with my private carrier truck I could charge transportation costs no problem.
- Number 262 Larry Michou: Right, so I understand it. We would not, you know, as part of the lease as part of the like I say, there are people who would lease it only long enough to carry it. See, normally you would have a delivery cost if you would use a common carrier in the case that you don't have a truck but there are some very interesting scams that are developing in covering transportation.
- Number 267 Rep. Moss: Let me ask you a question. Now let's say that we are a fuel distributor in a particular area in the state and we haul our own fuel with our own private trucks. Under this if the "leasee, bailee" is out of it can I charge transportation costs on that fuel as I deliver it to my retailer, retailer outlets?
- Number 274 Larry Michou: It is our opinion that you could as long as you meet the standard terms of distributor and again that's one of the things though that you have to buy the fuel and store it in some manner that you are calling yourself out to the public as a fuel distributor, that you use home delivery or

delivery to as part of your business, that there is a risk involved, i.e. if you don't sell the fuel you have to do something with it and all those sort of things. I would say that you could go ahead and deliver the fuel.

- Number 281 Rep. Moss: And add the transportation costs on it?
- Number 283 Larry Michou: Yes sir, as long as the "with" has been removed as was the amendment. With the "with".
- Number 284 Rep. Moss: The word "with" then cleared up the "leasee bailee" part that's in there.
- Number 285 Larry Michou: It doesn't really clean up the "leasee bailee" but it makes the "leasee bailee" a minor part of the change.
- Number 286 Senator Kelly: Are you going to be around for the remainder of the hearing?
- Number 287 Larry Michou: Yes, sir.
- Number 288 Senator Kelly: I think that we have the general drift of where the owner/operators are coming from, maybe we should call on somebody else now and see what they have to say. Between Jim Doyle, John Orchard, and Russ Painter, who would like to testify first. Russ, could you identify yourself for the record please?
- Number 294 Russ Painter: Mr. Chairman, Senators, my name is Russ Painter, I represent Lynden Transporting. I would like to go on record, let the record reflect that our company is in opposition to the bill, SB 135 that the hearing is on today. I perhaps have... could be qualified as one of the old owner/operators. I was born and raised in Seward. I owned and operated my own trucking business toward twenty years in that town. I have been in Anchorage and I have been connected with the transportation industry for all of that time. I would like the record to reflect that this company does not come to this Legislature to settle any labor problems nor do we come to this Legislature to settle any negotiations that we have with our owner/operators. Our company right now employs approximately 70 owner/operators

between the Anchorage and Fairbanks terminals. Our owner/operators, I would say on the general average other than the Fairbanks area right now would average between \$10 and \$14,000.00 per month. With wages and their trucks to a tune of an average of \$100 to \$120,000.00 a year. A little less in Anchorage but a little less rigorous roads to travel on. Apparently the... I sympathize with the owner/operators that are out of work today, I sympathize with their position that they have placed themselves in. The labor contracts that the state operated under in the pipeline. They created this problem and they are continuing to create it. I'd be happy to answer any questions that the Committee might have, but we see no basis for control or regulation of the owner/operators today. We have leases that we have signed with our owner drivers who are employees of Lynden Transport, they are filed with the ATC, we have complied with all the ICC regulations and we will continue to do so. We will continue to negotiate the rates that we pay these drivers, with the drivers, and we will continue to negotiate our labor contracts with the union. Thank you.

Number 333

Senator Kelly: Mr. Painter, just one question. You referred to... you didn't bring labor problems to the Legislature to have settled, is that an indication that we are in fact getting into a labor problem here, some time?

Number 337

Russ Painter: The true facts are that the people that we see that are represented here as owner/operators are with companies that are on strike today or have asked for decertification of the elections. So what I'm saying is in the Fairbanks area there are several companies that have either gone non-union or are in the process of decertifying now. One other point that I would like to make that Lyden Transport along with the thousands of other trucking firms in the United States is profit motivated and our first quarter reports for 1982 will reflect that profit. We are proud of what we do and we're proud of what we do with our own brokerage. March was the largest month the company has experienced and we have had approximately 400 loads from

Fairbanks to Prudhoe Bay without incident.

Number 353

Senator Kelly: Is Lynden a union shop?

Number 354

Russ Painter: Yes, we are a union contractor, right now we have not had a contract since June 30, 1980. We are actively pursuing that contract and negotiating with the union.

Number 357

Senator Kelly: Thank you.

Number 358

Rep. Moss: Mr. Painter, percentage wise on your owner/operator versus your company truck, do you have the percentages there that would.... like maybe say, 70% are owner/operators and 30% company operated? Do you see what I'm saying. Are you all owner/operated contracts.

Number 362

Russ Painter: No, we are not. We have a mix on our Board in Fairbanks and Anchorage both. In Fairbanks we have approximately eight company drivers who drive company trucks out of a board of about 44 people and in Anchorage we have 7 or 8 that drive out of the 35 man board. They do not drive their own trucks they drive trucks that we do lease.

Number 371

Senator Kelly: Thank you, Mr. Painter. Mr. Jim Doyle?

Number 375

Jim Doyle: I am Jim Doyle, I operate and own Weaver Bros. I have since November 1978. I didn't have anything to do with the Weaver Bros prior to that. I would like to go on record that I am not in favor of this House bill, SB 135. I think that we do need more time to work with this. Some of the statements that were made here today I do not agree with, they were not properly stated as far as some of the carriers were concerned anyway. I think that the Alaska Transportation Commission is over worked right now with approximately 400 certified carriers in the State of Alaska. The figure on owner/operators in the State of Alaska runs closer to 1500 rather than 500. Quite a few things in here that needs to be clarified. Most of our owner/operators average take-home is \$180,000.00 a year, we run most of the owner/operators totally all owner/operators in our Fairbanks terminal.

Anchorage terminal on the line board is all owner/operators, the Kenai area we run our company trucks, approximately three company trucks in the Kenai area over the haul road. The rest are all owner/operators. We employ 50 owner/operators at the present time. We are a union shop and I think the owner/operators who work do come and negotiate with them to negotiate with our Labor Union 959. We do discuss the contract with the owner/operators and we have proof that it is on the record, as a matter of fact some of the meetings that were negotiated with the owner/operators on wages and truck rental charges. We are regulated by the ATC and ICC, this one thing that is in here in SB 135 would give the owner/operators some operating authority. ICC was afraid I would give 80 to 90% of the freight going north is interstate commerce strike, and I think that we need more time on this we made a lot of negotiations and discussion. Time is running short and we have many questions.

Number 422

Senator Kelly: Is there a large difference in the way that some of the other terminals are being managed?

Number 423

Jim Doyle: I'm sure that there is a large difference between, especially between the non-union carriers and the union carriers, I think that is where the biggest difference in the freight rates are. Very possibly the difference in where the owner/operators are paid. I can't say for sure on that. I know that our owner/operators are among the highest paid in the state.

Number 432

Rep. Moss: You heard some testimony previously and some discussion on rear axles and transportation from the Lower 48 up here. Do you have any difficulty on your transportation... your use of your trucks between the Lower 48 and Alaska, you know, third axle stuff and so on.

Number 438

Jim Doyle: Yes, I do. I think that maybe did cause some confusion there. First of all, a lot of the trucks are too heavy for the southern states but they don't go down there anyway. Technically trucks coming from the southern United States are not equipped to run in Alaska. We need the extra axles for

heavier loads, we need heavier more expensive equipment, and we don't need all the chrome, the T.V's, the poddy chairs and stuff like that that are in a lot of the trucks, but they're in there. Basically the trucks in the United States don't have the type of equipment it takes to run in the cold country up here. It doesn't matter if the owner/operator is buying that truck or the owner of a company is buying the truck it is still the same problem with the truck.

Number 453

Rep. Moss: Do you very many recent owner/operators going to work for you?

Number 455

Jim Doyle: We have hired on maybe in the last three months..... approximately 10 new owner/operators, we have hired strictly Alaskan, we haven't brought anyone up from outside, they all have been Alaskans.

Number 461

Rep. Moss: Well, that's what I was getting at Mr. Doyle. Thank you, Mr. Chairman.

Number 462

Senator Kelly: Has your company actively recruited outside?

Number 463

Jim Doyle: No, we have not. Not even once.

Number 464

Senator Kelly: Are you aware of companies, Alaskan companies that have recruited outside?

Number 465

Jim Doyle: Only by rumor, I couldn't say, I've never seen any of it.

Number 467

Senator Kelly: John Orchard?

Number 469

John Orchard: My name is John Orchard, I am with 4-Star Terminals which is based in Anchorage and we run a mix of owner/operator and company trucks. 4-Star Terminals would like to go on the record as opposing SB 135. Not because we want to see outsiders come to Alaska and make money and not because we want old time Alaskans to starve to death but I feel, 4-Star Terminals feels that this bill deals with the effect of one of the causes of the problems. To me, the cause of the problem started with the ICC Motor Carrier Act of 1980, and as you will note from Mr. Doyle's statement that 70 to 90% of the freight that moves in the State of

Alaska, that your rig moves from outside and your drilling mud and your chemicals going to the North Slope. We are speaking primarily of North Slope freight is ICC freight which is regulated by the ICC. The Motor Carrier Act of 1980 has brought to the State of Alaska many new carriers in the last year and a half to two years with brand new ICC authorities and thereby those new carriers bringing people from outside and where it officially kept the rate structure that we long time carriers operate under is low. You combine that with another cost of a number of carriers, old time Alaska carriers that have gone on strike and I think if you took a poll of the owner/operators represented here are union and we are working for carriers who are presently on strike. A carrier who holds on strike has to get his owner/operators from someplace and so there you have two major problems. The ICC has allowed competition to come in. Price, volume or marketplace is determined by supply and demand and so you get new people who will haul for less because for whatever reason they brought in people for whatever reason you get the strike situation and we have a problem with the rate structure and therefore that problem is not only based by your motor carriers, your common carriers which ranks 4th themselves in trying to support the oil fields have problems passed down to their employees. Like Mr. Doyle with Lynden, you have a negotiations problem. So therefore I don't feel that this bill addresses those major problems the industry faces today. I feel like that we need more time to examine the ramifications of the price fixing or the... this is going to effect a lot of us in a lot of different way and I am not sure that this will solve the problems of those issues that I have brought up.

Number 533

Senator Kelly: The 1980 Motor Carriers Act.....

Number 534

John Orchard: The Motor Carrier Act of 1980 from Washington D.C. has allowed many new carriers nationwide. We got new carriers in the State of Alaska who three years ago did not have the authority to operate and haul freight in the State of Alaska. This bill is not going to stop that.

Number 545 Senator Kelly: Any question from the Committee? Thank you. Mr. Orchard. T.J. Thrasher, did you want to testify now or do you want...

Number 549 T.J. Thrasher: No, I'll wait until later.

Number 540 Senator Kelly: Okay, Bob Keeffer. Mr. Keeffer would you identify yourself for the record.

Number 552 Bob Keeffer: K, double "e", double "f", e. Mr. Chairman, Senators, my name is Bob Keeffer. I am not a newcomer to the trucking industry. I have been in it since 1947. I came to Alaska in 1974 and in 1975 I joined the class that is commonly called owner/operators. The last three people who that sat in this chair who have a beautiful opportunity for debate but I am not here to debate I am here to state facts. Number 1 being when I first came here I had the foresight to having been in the industry long to check to find out who had grandfather rights in this state for operating authority. It boiled down to three carriers. Three of which I kept badgering until, you know, as the old saying goes, the squeaky wheel gets the grease. And I got on with one of those three carriers which was Arctic Motor Freight. The problems are being outlined in this room today are not our recent problem they have been going on for years. And to exemplify this, I went to work for Arctic Motor Freight, who folded in 1976 owing me thousands of dollars in which time those permits were picked up by (Indisc.) and when they went down the tubes they're bills were paid. At which time, the same permits were picked up by Bishop Trucking which reverted back to Arctic Motor Freight. After a year or so Bishell pulled it up and I was left holding the bag for thousands of dollars. Recently, I worked for K&W Motor Freight, and 50, 60, 80 or 100 dollars at a time....I'm getting right back in the same box. I would like to know why the ATC sanctions the transferring, the selling, or the giving away of these permits when there are outstanding debts owed against them. We have no protection whatsoever, I took this problem to the Fairbanks office of the ATC, and I spoke with Mr. Nuttel, who I believe is the Commissioner up there. I was told

that there is nothing in the ATC regulations to protect the owner/operator. The shipper and the carrier are protected but not the owner/operator. I have documents available to back up my claims of the monies due me under the permits. K&W now owns the original Arctic Motor Freight permits, when they bought those permits those permits were separated. Bishell kept the tanker rates and it is still operating under those permits. I have an \$11,000.00 investment in those permits but I don't have a prayer of collecting on it and this is the second time and now it is going on the third time under these same permits, that I am back in this box.

Number 643

Senator Kelly: Mr. Keeffer, how does it happen that they owe you this kind of money when they went belly up?

Number 645

Bob Keeffer: In our lease agreements there is a payday specified, a wage check one week and a truck check next week. I assume the reason is that by the time they turn in their bill and in turn, paid for those bills in calls for this lapse of time. But we when I would get a truck I would notice that there would be one load missing from that truck check. I would go to the office and find out why and they would say, well there was a little discrepancy and we have to check it. On your next truck check you should get it but by the next time truck check there are two loads missing and on and on and on. This is how we wind up in the bucket and then when the company goes down the tubes we don't have a prayer of redeeming it. I had a law suit started under a class action or a bankruptcy, Chapter 11. Two days after that law suit was filed the company withdrew the class action Chapter 11 and went (indisc.....) and why I don't know.

Number 682

Senator Kelly: Then obviously, you took this problem to the ATC. Did you take it to the ATC when Arctic Freight went bankrupt in 1976?

Number 686

Bob Keeffer: Yes, I did.

Number 687

Senator Kelly: And what was their reaction to this?

Number 688

Bob Keeffer: That the ATC regulations protect the shipper, they protect the carrier, they do not actually protect the man who is actually carrying that freight from point A to point B. There is not one stipulation in there to protect the man that is carrying it. Senator Moss picked up on another thing that I had here. The Alaskar owner/operator is in a geographical box. It has been brought to your attention that we have to have specialized equipment to haul this freight in this area these trucks have got to be sold in this state. In other words, if I were to turn in my tractor for a new one which I had done, the only place they could sell that tractor without doing rather expensive modification is to sell right here in the state. In this way, we are restricted. If we were outside, trucking in the Lower 48, if we didn't like the way a company was handling our truck contracts we could whip over to another one. There are not that many of them up here. Personally, I am in a larger box than some of these other fellow because in nine weeks I'll be 58 years old and I don't have time to start over. I can't start over. SB 135 would be a start at protecting the owner/operators in the State. We need legislative support and we need it now. Thank you for your time.

Number 000

Tape 2, Side A begins with Rep. Moss: Okay, the lease check is on the equipment and the paycheck is on the drivers. It would be interesting to know, did they withhold the lease check or the paycheck? Now the reason that I ask the question is do you have any other recourse that you can take? For example, a labor lien if you fail to get your driver's check.

Number 005

Bob Keeffer: Again, Senator, the last three people that sat in this chair rejected a labor problem. This is not a labor problem it is an equipment problem. Most of us are union members, the union will back us one hundred percent in receiving our paychecks. In other words, what we have coming labor wise. They have nothing to do, they cannot do anything with our truck checks. They cannot get involved, no way.

Number 013

Rep. Moss: Well, that answers my question on the separateness of the two. We have no

problems with we're addressing the problems right now.....

Number 015

Bob Keeffer: That's correct.

Number 016

Senator Kelly: Thank you, Mr. Keeffer.

Number 017

Bob Keeffer: Thank you.

Number 018

Senator Kelly: Larry, how can that happen that you can transfer permits if there is money owing under the new permits? Is there no protection for the owner/operator?

Number 019

Larry Michou: To my knowledge, no sir. It is my understanding from..... I am not speaking for the Commission but it is my understanding of another case of a carrier who had financial difficulties with the transfer, his permit as, it would be an error. It is the same situation that it has been determined that the Transportation Commission is not to look at the financial status of the transfer or in the sense of what is owed to the debtors. Unfortunatley or fortunatley, whichever side you want to look at the owner/operators are considered just like any other accounts receivable to these... or excuse me, accounts payable to the firm that's transferring the permit. Under (indisc.) that other rights in other portion of the law is not a matter of consideration at the time of transfer. Before the 5:00 hearing I'd be glad to check with our legal counsel as to exactly why that is because that is what we've been told is that the debtor does not have a position on the Commission to do the transfer. I'd be glad to find out why.

Number 034

Senator Kelly: Then this bill does not effect that particular point?

Number 035

Larry Michou: This Act, SB 135? No, sir. Well, that would be part of the thing that we would have to work out, possibility in regulations you could, because you would have a carrier, then they would be a carrier and they would have a position for the admission as a carrier. Possibly through regulatory process we might come up with one but I would say of the top of my head probably this really doesn't get to that problem of the formula of transferring

permits with money owing.

Number 040

Senator Kelly: It just seems to me, you know, you take your chances sometimes and if you're working for a company that goes belly up you should be able to go back to that company. But it just seems to me that before you issue those permits to another company there should be some protection here for the owner/operators that are owed money. You are going to check on that?

Number 045

Larry Michou: Yes sir, I certainly will Senator.

Number 046

Senator Kelly: We are going to recess the Rules meeting then until 5:00 p.m. in the Butrovich Room which again is on the second floor by the Senate chambers and we will continue to hear testimony at that time. Thank you very much. Oh, I'm sorry. We are going to call the meeting back to order. There is one gentlemen that has to take off at 3:00 so, Mr. Clifford if you could please.

Number 051

Dave Glover: My name is Dave Glover and I've been in Alaska all my life, I've been an owner/operator and now I am what would be classed, as I suppose, as a private carrier in the fuel oil distributorship business in Delta and Tok Junction both. And there is(sic) no rules, or no laws protecting the owner/operators. And I can say this for a fact because I worked for a common carrier in the past and he did not go broke or from what I'm aware of did not lose money. He restructured..... I was there as a company driver and the company restructured their company to go all owner/operators. I bought a truck, built a maintenance facility and worked there for about a year and he decided that he did not need owner/operators anymore cause they cost him too much money. I had a written contract and also a verbal contract. About two months after my termination there we went into Court and in the Supreme or the Superior Court of Alaska and the judge told us, "Well, there is not much we can do because there are no rules, no laws, nothing to help and protect an owner/operator". It is a real drastic problem cause we're just an owner/operator who is a slave or servant to the common carriers. You can go up and

down the road everyday and I feel the owner/operators do a very good job for the carriers. And like I say, personal experience, I have been an owner/operator and I'm not right now, I am a private carrier and it is a bad situation because there is nothing. There is things to protect the carrier but nothing to protect the owner/operator, not one thing. And that was, like I say, I can speak from experience and spend thousands of dollars to try and get my fair shake out of a carrier. And now I am in the next higher court and it is yet to be seen what will happen. And this is a real, like I say, real drastic problem. There needs to be something. and I support the SB 135 and in section I support the amendments because I am a private carrier in a fuel oil distributorship.

- Number 079 Senator Kelly: Pappy?
- Number 080 Rep. Moss: One question, Mr. Glover do you support the deletion of the "leasee bailee" portion.
- Number 081 David Glover: Yes, that needs to be in there, you bet.
- Number 082 Rep. Moss: You mean you support the deletion of it?
- Number 083 David Glover: No not the deletion of it. No, I do not support that.
- Number 084 Rep. Moss: I didn't know, I just wanted to make that clear and make sure I understood you properly. Now, why do not support the deletion of it?
- Number 085 David Glover: Because it is a.... you'll say you're an equipment rental outfit and you rent equipment to Palmer, Prudhoe Bay, Tok where ever. You don't have to but most people deliver their own rental equipment and you have to be able to deliver. And you need something for deliveries, you can't drive up and down the road for nothing.
- Number 087 Rep. Moss: Okay, now the change, add the reinsertion of the "with" or without the portion of that section 3. That took care of the problem that you may have had that fuel distributors had.

Number 090 David Glover: Right, because we have to be able to haul our own product. There is no way around it. We can't have common carriers hauling off our own product.

Number 091 Rep. Moss: Thank you, Mr. Chairman.

Number 092 Senator Kelly: Anybody else? Okay, thank you very much. We'll recess until 5:00 p.m.

Number 093 Senator Kelly: I'd like to call the meeting back to order at 5:00 p.m. in the Butrovich Room. George Rouse?

Number 097 Rep. Moss: Mr. Chairman, I am going to have to bail out pretty quick.

Number 098 Senator Kelly: Pappy.... The House is supposed to go into session so if you hear a bell ring and you see Pappy leave that means they're back on the floor. Mr. Rouse?

Number 099 George Rouse: Yes, my name is George Rouse, I'm with Northern Tariff Research, senior partner in the firm. It has been in existence for 14 years, I have around 25 years of experience in the transportation industry. I would like to testify before the Committee on public interest that I am neither basically for or against. Either hardy and the Senate hearings, however, perhaps I can enlighten the committee a little bit about the history of the trucking industry and how the situation got to be where it is at today. Basically, here in Alaska you have a very captive owner/operator situation because of the trucking companies requirements you have to purchase equipment that can't go outside and compete in the other markets. The truckers down below, the owner/operators can come to Alaska and compete in the market up here because however their equipment isn't quite designed for it it just falls apart faster. The situation in the Interior is such that we have basically four outside domicile companies. We have Sealand which is from the east coast, Totem which is from the east coast. In the Interior interstate movement you have 80% of the freight moved by two trucking companies. K&W organization domiciled in Minnesota and you have Lynden domiciled in Seattle. Even though they do operate under Alaska corporations that would