

2421

HJ

HB 79

-

HB 80

24

JUDGE HORNADAY RESIDES AND HOLDS COURT IN THE SMALL CITY OF HOMER, THE VOTE WAS 6000 TO 3000 IN FAVOR--AN IMPRESSIVE VOTE.

NOW IT HAPPENS THAT JUDGE HORNADAY HANDS OUT TOUGH SENTENCES TO THOSE CONVICTED OF DRUNK DRIVING. SO QUITE NATURALLY, THE TRANSGRESSOR AND HIS LAWYER, QUITE LOGICALLY AND WITHOUT HAVING TO GIVE A REASON, PEREMPTORILY CHALLENGED JUDGE HORNADAY ASKING THAT THE CASE BE HEARD BEFORE ANOTHER JUDGE SINCE, OF COURSE, THE SENTENCE ^{IS NOT GENERALLY} ~~CAN'T LEGALLY BE~~ MADE ANY MORE SEVERE AND MIGHT QUITE POSSIBLY BE LIGHTER. ANY GOOD LAWYER WHO DOES THIS IS QUITE WITHIN HIS RIGHTS, SINCE IT HIS DUTY TO OBTAIN FOR HIS CLIENT THE LIGHTEST POSSIBLE SENTENCE. IN OTHER WORDS, THE LAWYER IS NOT AT FAULT, THE LAW IS, AND THAT IS WHY I ASK YOU AND YOUR COMMITTEE TO REMEDY THIS DEFECT BY FAVORABLY PASSING OUT HB 79.

NOW, IN A STATEMENT AT A HEARING REGARDING JUDGE HORNADAY HELD IN HOMER ON JANUARY 5, 1983, SUP. COURT JUDGE MARK ROWLAND TESTIFIED THAT JUDGE HORNADAY WAS PEREMPTORILY CHALLENGED IN ABOUT 80% OF THE CASES COMING BEFORE HIM, ONLY A SMALL PERCENTAGE OF WHICH HAD TO DO WITH DRUNKEN DRIVING. IN OTHER WORDS, BY ACCIDENT OR DESIGN, MOST OF THE LAWYERS ON THE KENAI PENINSULA INDULGED IN A VENDETTA AGAINST JUDGE HORNADAY PEREMPTORILY DISQUALIFYING HIM. IN EFFECT, THESE LAWYERS SAID, "OKAY, SO YOU ARE GOING TO HAND OUT MAXIMUM SENTENCES AGAINST OUR DRUNK DRIVING CLIENTS. THEREFORE, WE WILL PEREMPTORILY DISQUALIFY YOU FOR ALL OUR CASES." OF COURSE, THIS LEFT JUDGE HORNADAY WITH LITTLE TO DO AND MADE IT NECESSARY FOR SUP. COURT JUDGE

MARK ROWLAND TO DISPATCH A JUDGE FROM ANCHORAGE AT NEEDLESS EXPENSE TO HOMER TO HEAR JUDGE HORNADAY'S CASES. AND SINCE HORNADAY HAS BEEN RENDERED INEFFECTIVE, ROWLAND HAS TRANSFERRED HIM TO ANCHORAGE AS OF JUNE 1, THUS QUITE LEGALLY TRANSGRESSING THE WILL OF THE PEOPLE OF THE KENAI PENINSULA. JUDGE ROWLAND IS NOT WRONG; THE LAWYERS ARE NOT WRONG; THE LAW IS WRONG AND HB 79 RECTIFIES THE SITUATION.

IN ANCHORAGE, PEREMPTORY DISQUALIFICATION OF JUDGE HORNADAY WOULD COST NOTHING SINCE THERE ARE SEVERAL JUDGES OF JUDGE HORNADAY'S RANK AVAILABLE.

THEREFORE, IT SEEMS THAT PEREMPTORY CHALLENGE OF A JUDGE WITHOUT CAUSE SHOULD BE STRICKEN FROM THE BOOKS SINCE IT SERVES LAWYERS AND TRANSGRESSORS AND NOT THE ADMINISTRATION OF JUSTICE. REM ACU TETIGISTI.

IF, MR. CHAIRMAN, THIS 13TH STATE LEGISLATURE PROMPTLY PASSES OUT HB 79 WHICH WOULD ELIMINATE PEREMPTORY DISQUALIFICATION WITHOUT CAUSE, THE PEOPLE OF THE KENAI PENINSULA WILL KEEP THE JUDGE WHOSE ACTIONS THEY APPLAUDED BY VOTING FOR HIS RETENTION 2 TO 1.

PASSAGE OF THIS MEASURE WILL ALSO PREVENT THIS FROM OCCURRING IN OTHER ^{one -} JUDGE JURISDICTIONS WHERE, FOR FRIVOLOUS REASONS OR NO REASON AT ALL, A JUDGE MAY BE PEREMPTORILY DISQUALIFIED. THE JUDGES ARE NOT WRONG, THE LAWYERS ARE NOT WRONG, THE PEOPLE ARE NOT WRONG--THE LAW IS WRONG. LET US REPEAL IT BY PASSING HB 79.

I THANK YOU, MR. CHAIRMAN.

POUCH V
JUNEAU, ALASKA 99811
465-4990

P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515



CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Wayne Anthony Ross
360 "K" Street, Suite 240
Anchorage, Alaska 99501

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Ross:

Thank you for taking the time to author and forward to the Committee the letter setting out your feelings with regard to HB 79. This letter, along with a great deal of other information, was considered by the Committee before making its findings and reporting the bill out without amendment or change.

On Wednesday, February 25, 1983, HB 79 was brought before the House for second reading and debate. After nearly two hours of debate and one attempt at having the bill amended, HB 79 was advanced to third reading and voted on by the body.

A copy of the House Journal covering action by the House for its thirty-eighth day is enclosed and shows the voting and progress of HB 79 as it passed the House. At the close of the floor action for the day on HB 79, Representative Fritz gave notice of reconsideration of his vote which carries the bill to the next legislative day for another vote if brought up at that time.

On the next legislative day, HB 79 was not again brought up, so it has passed the House as shown in the Journal for the thirty-eighth day.

Thank you again for taking the time to become involved with the legislative process.

Regards,

A handwritten signature in cursive script, appearing to read "C. Bussell".

Representative Charlie Bussell
Chairman Committee on Judiciary

CB:lyn

**Wayne
Anthony
Ross**

ATTORNEY AT LAW



ROBERT D. FRENZ
THOMAS S. GINGRAS
WILLIAM D. COOK

MAIN BRANCH · 360 "K" STREET, SUITE 240 · ANCHORAGE, ALASKA 99501 · AREA 907/277-6775 · 276-5307
CORDOVA BRANCH · POST OFFICE BOX 207 · CORDOVA, ALASKA 99574 · AREA 907/424-7229

February 10, 1983

Representative Charlie Bussell
Chairman House Judiciary Committee
Pouch V, Capitol Building
Juneau, Alaska 99801

Re: House Bill No. 79

"An Act repealing peremptory disqualification of a judge and changing Rule 10(c) and Rule 25(d), Rules of Criminal Procedure and Rule 2(c), Rules of Civil Procedure; and providing for an effective date."

Dear Representative Bussell:

This letter is to express our strong opposition to House Bill No. 79.

It was clearly apparent from the testimony of Representative Fritz in support of his bill, that this bill is tailored for only a few judges and primarily Judge Hornaday of Homer. The bill simply is inapplicable to the majority of the judges on the bench today.

The attorney handling the case is in the best position to gauge his rapport with a judge based upon the judge's past actions. A peremptory challenge allows a change of a judge without antagonizing or embarrassing a judge. There is no need to state your reason for the peremptory challenge. If there is a valid reason for a change of judge, and an attorney had to state his reasons, it would certainly destroy that attorney's rapport with that judge for any future cases in front of him. Judges are only human too.

A judge being only human, can easily be biased in one area of the law. If a fair trial is to be guaranteed, the attorney and his client should have the right to a change of judge when appearing in front of him in that area of the law. It is

Representative Charlie Bussell
February 10, 1983
Page 2

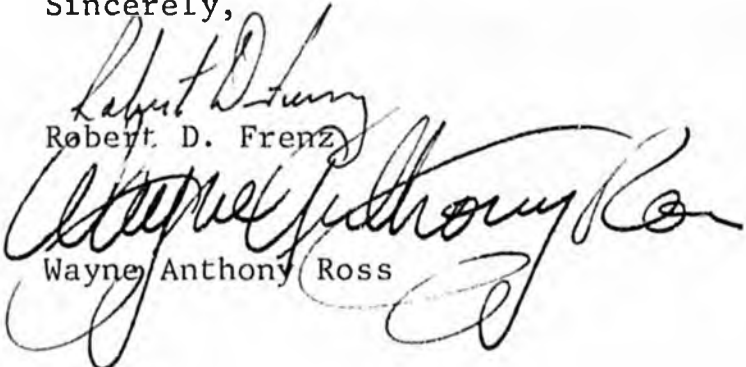
apparent in this state as in all other states that jurors can be challenged for cause and in fact may be excused without cause. Why cannot we have the right to change one judge as well?

Apart from a judge's actual bias on issues of law, there are times when attorneys do suffer from personality conflicts with a judge. For this reason, the attorney should be allowed to preempt the judge and not make the client suffer.

The system has worked well in the past, and now only in the one judge area is it having a problem. In essence the baby should not be thrown out with the bath water for that one problem. We are certain that there are other ways of resolving the problem rather than repealing Alaska Statute 22.20.022.

We urge you to defeat House Bill 79.

Sincerely,


Robert D. Frenz

Wayne Anthony Ross

RDF/jm

POUCH V
JUNEAU, ALASKA 99811
465-4990

P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515



CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

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360 "K" Street, Suite 240
Anchorage, Alaska 99501

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Thank you again for taking the time to become involved with the legislative process.

Regards,


Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:lyn

MCG 03-00010215 PRTY-1 01/24/03 14:19:24 ORIG: LMOO IN: 0014 OUT: 0102
FROM: MARTIE/MATSU TO: JUNEAN INFORMATION
TARGET: LJHL SUBJ: PCM

TO: ALL LEGISLATORS

FROM: LEONARD MOFFETT
PO BOX 712
PALMER 99645

PRE-EMPTION SHOULD BE ELIMINATED WHEN USE A CONDENSE CASE BY CASE DISCLOSURE STATEMENT FILED WITH THE COURT BY PERTINENT JUDGES AND ATTORNEYS AFTER LEARNING THE NAMES OF PEOPLE INVOLVED AND THE NATURE OF THE CASE. THE LEGISLATURE COULD DEFINE THE TYPES OF CONFLICT AND STAP THAT WOULD REQUIRE AN OFFICER OF THE COMPT TO WITHDRAW FROM A CASE. THIS CRIMINALS AND PETITANTS COULD EXPECT TRIALS WITH MINIMUM PREJUDICES OR CONFLICTS OF INTEREST.

POUCH V
JUNEAU, ALASKA 99811
465-4990

P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515



CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 21, 1983

Mr. Mark Andrews
P. O. Box No. 521
Bethel, Alaska 99559

SUBJECT: House Bill 79, Pre-emptory Disqualification

Dear Mr. Andrews:

Thank you for taking the time to write expressing your thoughts on alternative proposals to improve HB 79.

After a great deal of deliberation on the bill and having taken several hours of teleconference, the Committee moved the bill out favoring its passage as written. It will require a 2/3's vote as it deals with a court rule and I believe it is scheduled for floor action some time this week.

Thank you again for becoming a part of the legislative process.

Regards,


Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:lyn

P.O. Box 521
Bethel, Alaska 99559
February 15, 1983



Representative Charlie Bussell
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Rep. Bussell;

These are my comments concerning House Bill No. 79, which would repeal peremptory disqualifications of judges.

I listened to all of the testimony on January 31, and to much of the testimony on February 3. Without going into the pros and cons again, I believe that the alternative proposal for temporary reassignments should be adopted. Specifically, I believe that there should be a limit on the first reassignment to 90 days. This temporary reassignment would provide a "cooling off" period for all parties involved. The costs to the judicial system would be reduced by temporarily halting the continual reshuffling of judges, and relations between bench and bar would have the opportunity to improve.

If the peremptory disqualifications continued with the same frequency after this first reassignment, then the solution to the problem would be left to the discretion of the chief judge of the district, including the possibility of permanent reassignment.

I believe that a second alternative, that of limiting peremptory challenges to multijudge courts, is unconstitutional.

The Homer incident has illuminated a part of a larger problem with the practice of peremptory disqualifications. Perhaps the House Judiciary Committee could vote to provide funding to the Alaska Court System for a study of (1) the dollar costs of the present practice, specifically focusing on the differences between single judge and multijudge courts, and (2) the effects of the current practice on sentencing.

Thank you for your kind attention.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Mark Andrews'.

Mark Andrews

Holta
2-16-83

A M E N D M E N T

Failed 2/13

Offered in the HOUSE

By Wendte

TO: House Bill No. 79

Page 1, line 6, following "An Act" delete "repealing" and insert "relating to"

Page 1, line 11, following "AS 22.20.022" delete "is repealed." and insert "(a) is amended to read.

Sec. 22.20.022. PEREMPTORY DISQUALIFICATION OF A SUPERIOR OR DISTRICT COURT JUDGE. (a) If a party [OR A PARTY'S ATTORNEY] in a district court action or a superior court action, civil or criminal, files an affidavit alleging under oath a statement of facts and reasons for the belief that a fair and impartial trial cannot be obtained, the presiding district court or superior court judge, respectively, shall at once, and without requiring proof, assign the action to another judge of the appropriate court in that district, or if there is none, the chief justice of the supreme court shall assign a judge for the hearing or trial of the action. The affidavit shall contain a statement that it is made in good faith and not for the purpose of delay.

* Sec. 2. AS 22.20.022(d) is amended to read:

(d) A party [OR A PARTY'S ATTORNEY] may not file more than one affidavit under this section in an action and no more than two affidavits in an action."

Page 1, line 12, change "Sec. 2" to "Sec. 3"

Page 1, line 12, following "AS 22.20.022" delete "repealed" and insert
"amended"

Page 1, line 14, delete "eliminating" and insert "modifying"

Page 1, lines 16 - 18, delete all material.

MSG 83-00006057 PRTY 1 02/03/83 14:00:44 ORIG: LR00 IN= 0013 OUT= 0011
FROM: FLORENCE IN BARROW TO: TIM/JUNEAU
TARGET: LJH1 SUBJ: (H) JUD ON HB 79 2/3/83

OMNI # 2

PARTICIPANT WHO WOULD LIKE TO TESTIFY:

✓
HAROLD CURRAN
BOX 69
BARROW, AK

2:55 - 3 FEB 83

852-2611

MSG 83-00006059 PRTY 1 02/03/83 14:09:46 ORIG: LA08 IN= 0009 OUT= 0012
FROM: BARBARA IN ANCORAGE TO: JNU T/C
TARGET: LJH1 SUBJ: H JUDICIARY T/C, 2/3

OMNI #3

TO TESTIFY:

8. TERESA CARNS, AK JUDICAL COUNCIL, 1031 W. 4TH, SUITE#301, ANC., 279-2526

WE HAVE 5 PEOPLE TO TESTIFY WHO WERE ALSO AT MONDAY'S H. JUDICIARY T/C....

ERIC SANDERS
RON DRATHMAN
HENRY CAMAROT
MICHAEL SCHNEIDER
JOHN LOHFF

THANKS FOR YOUR HELP.....

MSG 83-00006055 PRTY 1 02/03/83 14:00:33 ORIG: LA08 IN= 0008 OUT= 0010
FROM: BARBARA IN (ANC) TO: JNU T/C
TARGET: LJH1 SUBJ: H. JUDICIARY T/C, 2/3

OMNI #2

TO TESTIFY:

7. JOHN B. LOHFF, 308 G ST., #303, ANCHORAGE 99501 276-8514

TO OBSERVE:

5. ELIZABETH MICHURSON, 1024 W. 6TH, ANCHORAGE, 99501 274-1426
6. STEPHEN J. VAN GROOT, 308 G ST., #303, ANCHORAGE, 276-8514

MSG 83-00006074 PRTY 1 02/03/83 14:29:52 ORIG: LA08 IN= 0011 OUT= 0016
FROM: BARBARA IN ~~ANC~~ TO: GAIL/TIM IN JNC
TARGET: LJH1 SUBJ: H. JUDICIARY T/C, 2/3

OMNI #4

TO TESTIFY

9. PHILLIP WEIDER, 444 H STREET, ANCHORAGE 276-7000

MSG 83-00006060 PRTY 1 02/03/83 14:10:44 ORIG: LV00 IN= 0003 OUT= 0014
FROM: PAT, VALDEZ TO: JND T/C
TARGET: LJH SUBJ: HB79, HOUSE JUDICIARY/PRE-EMPTION

PARTICIPANT... TESTIFY 3:25 3 Feb 83 PDS
1. ? WILLIAM BIXBY, BOX 1229, VALDEZ 99686 835-4775 ATTORNEY; COWAN, GILLESPIE
& JEFFERSON

private practice, formerly FBI

HB 79

Seward

Testify

3 Feb 83

1. George Peck 2 PM
2. Lt. Donald Earl 3:30

1 - observer - has had
to leave

Jan

Hom
testify

1. John Rate 3:55 3 FEB 83
2. Calvin Hand 4:15 3 FEB 83
3. Ed Bailey 4:10 3 FEB 83

≡

MSG 83-00006034 PRTY 1 02/03/83 13:35:18 ORIG: LA08 IN= 0005 OUT= 0006
FROM: CANDY/ANCHORAGE TO: GAIL
TARGET: LJH1 SUBJ: **** HOUSE JUDICIARY T/C 2/3 *****

HAVE BEEN ASKED TO ALERT YOU THAT KBBI RADIO/HOMER WILL BE TAPING
JUDGE HORNADAY.

ALSO, BARBARA WANTED ME TO MAKE SURE THAT YOU HAD RECIEVED HER OMNI
EARLIER ABOUT HENRY CAMAROT'S TIME CONSTRAINT. HE MADE THIS REQUEST A
DAY OR TWO AGO, AND IF AT ALL POSSIBLE WOULD LIKE TO SPEAK AT 12:15 AST,
2:15 PST.

THANKS

MSG 83-00006033 PRTY 1 02/03/83 13:30:14 ORIG: LL00 IN= 0003 OUT= 0004
FROM: DEE, SOLDOTNA TO: TIM/JUNEAU
TARGET: LJH1 SUBJ: H. JUD. DISQUALIFICATION JUDGES 2/3/83

OMNI # 1

PARTICIPANTS

150 - 3 Feb 83

1. ALLAN BEISWENGER BOX 3519 SOLDOTNA, AK. 2629164

E.O.M.

MSG 83-00006031 PRTY 1 02/03/83 13:30:18 ORIG: LF20 IN= 0004 OUT= 0005
FROM: LYNDA/FBX TO: ALL
TARGET: LJH1 SUBJ: HSE JUD T/C 2/3

FAIRBANKS HAS ONE PARTICIPANT TO TESTIFY:

135 - 3 Feb 83

1. ART ROBSON, R.V.B.A., 3568 GERAGHTY ST, FBX. 99701 PH 479-6281

HE WAS ONE OF THE FOLKS WHO WAS NOT ABLE TO TESTIFY AT THE LAST HEARING AND IS UNDER A TIME CONSTRAINT TODAY. WOULD IT BE POSSIBLE FOR HIM TO GIVE HIS TESTIMONY AS SOON AS POSSIBLE? THANK YOU.

-----EOM

MSG 83-00006045 PRTY 1 02/03/83 13:46:30 ORIG: LF02 IN= 0001 OUT= 0008
FROM: ANNIE IN FAIRBANKS TO: JUNEAU T/C
TARGET: LJH1 SUBJ: JUDICIARY T/C 2/3/83

HERE TO TESTIFY IN FAIRBANKS:

JUDGE HUGH H. CONNELLY, 604 BARNETTE, ROOM 341, FAIRBANKS 99701 452-9251

2:35 3 FEB 83

MSG 83-00006040 PRTY 1 02/03/83 13:48:03 ORIG: LA08 IN= 0007 OUT= 0009
FROM: BARBARA IN ANC TO: JNU T/C
TARGET: LJH1 SUBJ: H. JUDICIARY T/C, 2/3

IN ANCHORAGE TO TESTIFY:

- Well have lunch with Lyell suggested*
1. ^{ps} ERIC SANDER, 500 C STREET, ANC, 272-3538 *3 PM - 3 FEB 83*
 2. ^{pi} RON DRATHMAN, 444 H ST., ANC 276-7000 *3:05 - 3 FEB 83*
 3. MICHAEL, SCHNEIDER, 880 N ST., #200, ANC, 99501 277-4551
 4. ^{plw} HENRY CAMAROT, 310 K STREET, SUITE 500, ANC 276-6363 - *2:15 3 FEB*
 5. MARYANNE E. FOLEY, 227 E. 12TH AVE., #2, ANC 274-2890
 6. JULIE SIMON, 3812 SPENARD RD., ANC., 276-3125

TO OBSERVE:

1. PETER MYESING, 444 H STREET, ANC., 276-700
2. W. JOHN LOIN, 2531 NORTHRUP PLACE, ANC., 277-4194
3. JEFF BERLINER, ANCHORAGE TIMES, 820 W. 4TH, ANC., 278-5622
4. ELAINE ANDREW, 2131 BELAIR, ANC 272-7709 *3:30 3 FEB 83*

TESTING THE SYSTEM IN A SEPARATE AREA
TO CHECK THE CONNECTIONS TO THE
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THE MESSAGE OF THE LOGS AND THE LOGS ARE
TESTING THE SYSTEM IN A SEPARATE AREA

MSG 83-00006023 PRTY 1 02/03/83 13:23:45 ORIG: LJ03 IN= 0001 OUT= 0002
FROM: GAIL TO: TEST
TARGET: LJH1 SUBJ: TEST

TEST

MSG 83-00006027 PRTY 1 02/03/83 13:25:15 ORIG: LJ03 IN= 0003 OUT= 0003
FROM: GAIL TO: TEST
TARGET: LJH1 SUBJ: TEST 2

TEST 2

1-26-83
 Friday
 No Meeting
 Scheduled

HOUSE JUDICIARY COMMITTEE
FIRST COMMITTEE OF REFERRAL

			<u>HEARING</u> <u>DATE</u>	<u>REFERRED</u> <u>TO</u>
HB 2	An Act relating to penalties for the use of restricted ammunition in the commission of a crime.	Hayes <i>Perce</i>	1-25	<i>Thurs</i>
HB 8	An Act relating to judicial retention elections; and providing for an effective date.	Grussendorf		
<i>two</i> HB 10	An Act relating to imitation controlled substances.	Abood	1-26 2/1	<i>wed</i> HJR1
HB 17	An Act relating to age limits under Title 4, Alcoholic Beverages.	Martin	1-27	
HB 38	An Act relating to age limits under Title 4, Alcoholic Beverages.	MM Miller		
HB 52	An Act relating to government interests in intellectual work products developed at the expense of the state.	Rules		
SSHB 58	An Act requiring certain prisoners to serve a full sentence.	Lindauer Barnes	1-28	
HB 60	An Act providing for conditional pardon.	Lindauer		
HJR 1	Proposing an amendment to the Constitution of the State of Alaska providing that a legislator who is convicted of a felony forfeits legislative office.	Phillips	1-26	<i>wed</i>
HJR 2	Proposing an amendment to the Constitution of the State of Alaska limiting the length of regular sessions of the legislature.	Hayes	1-24	Rules 1-24
HJR 3	Proposing an amendment to the Constitution of the State of Alaska limiting the length of regular sessions of the legislature.	Phillips		

		<u>HEARING</u> <u>DATE</u>	<u>REFERRED</u> <u>TO</u>
HJR 4	Relating to the ratification of an amendment to the Constitution of the United States defining Congressional representation and voting rights for residents of the District of Columbia.	MM Miller	
HJR 5	Proposing an amendment to the Constitution of the State of Alaska relating to annulment of regulations be the legislature.	Szymanski	
HJR 6	Relating to the proposal of Congress of an Equal Rights Amendment.	MM Miller	
HJR 7	Proposing amendments to the Constitution of the State of Alaska relating to the election of attorney general and to procedures governing the election and term for state offices to be elected under the constitution.	Uehling Ward Barnes	
HJR 8	Proposing an amendment to the Constitution of the State of Alaska relating to elections for candidates for the offices of governor and lieutenant governor.	Flood	
HJR 9	Proposing an amendment to the Constitution of the State of Alaska relating to elections for candidates for the offices of governor and lieutenant governor.	Bussell	
HJR 11	Proposing an amendment to the Constitution of the State of Alaska limiting the length of regular sessions of the legislature.	Lacher	
HJR 12	Proposing and amendment to the Constitution of the State of Alaska relating to the terms of legislators.	Lacher Tischer Lindauer	

HEARING
DATE

REFERRED
TO

HB 75 An Act relating to the Pestinger
exclusionary rule; changing Furnace
Rule 37(c), Rules of Criminal Uehling
Procedure, and Rule 412, Alaska Barnes
Rules of Evidence, by limiting
application of the exclusionary
rule when a good faith search only
results in technical violations of
the constitutional guarantee
against unlawful search and seizure.

HB 79

An Act repealing peremptory
disqualification of a judge and
changing Rule 10(c) and Rule
25(d), Rules of Criminal Procedure
and Rule 42(c), Rules of Civil
Procedure; and providing for an
effective date.

Fritz

3/31

- to continue

to Thursday

← Vincent Vitale
274-3538
request file

HB 87

An Act prohibiting publication
of the identity of persons
charged with certain sexual offenses;
and changing Rule 6(1), Rules of
Criminal Procedure.

Bettisworth

1:30

HB 100

An Act relating to assaulting
a peace officer, fire fighter,
or emergency responder.

Lacher

HB 104

An Act relating to compensation
for victims of violent crimes; and
providing for an effective date.

Clocksinn

HJR 13

Urging the United States Congress
to propose to the people of the
United States an amendment to
the Constitution of the United
States, or to call a convention
for the purpose of adopting the
"Liberty Amendment".

Bettisworth

HJR 14

Proposing amendments to the
Constitution of the State of
Alaska providing for the ratification
of appropriations by the qualified
voters of the state.

Bettisworth

HCR 11

Relating to the use of petit
juries of earphones.

Fritz

		<u>HEARING</u> <u>DATE</u>	<u>REFERRED</u> <u>TO</u>
HB 109	An Act relating to criminal prosecution of minors.	Pestinger Furnace	
HJR 24	Proposing an amendment to the Constitution of the State of Alaska relating to the rights of states.	Rules	
HB 124	An Act requiring an advisory vote by the qualified voters of the state on amendments to the Alaska Statehood Act.	Rules	

17 L.L.E.
55 S. 1st Ave. Anchorage

1976 Judges Conference
on Record Against
Ch 116
1971

1967
SB 66

3 Feb 82 - HB 79

- 1:35 Art Robson Fairbanks (Judge)
- 1:50 Allan Beiswenger Soldotna (Attorney)
- 2:00 Geo Peck Seward - (City Attorney) (Judge)
- 2:15 Henry Cameron (Attorney) Anchorage
- 2:35 Hugh Connelly Fairbanks (Judge)
- 2:55 Harold Curran Barrow - (USB) Attorney
- 3:00 Eric Sanders Anchorage Attorney
- 3:05 Ron D Rothman Anchorage Attorney
- 3:10 James Hornaday Homer Judge
- 3:25 William Bixby Valdez Attorney
- 3:30 Elaine Andrews Anchorage Judge
- 3:45 Phillip Weidner Anchorage Attorney
- 3:55 John Rate Homer Attorney
- 4:10 Ed Bailey Homer Lay person
(NEED his statement) (Good ideas)
- 4:15 Calvin Hard 16 years Homer (Anchor Point Res)
(NEED his statement) for ~~trial~~ future use
- 4:30 Gerald Williams Juneau (Judge)

(Don't Judges Give Warning regarding a 2nd ??)
Rule 45 — impedes timely trial

MSG 83-00006074 PRTY 1 02/03/83 14:29:52 ORIG: LA08 IN= 0011 OUT= 0016
FROM: BARBARA IN ANC TO: GAIL/TIM IN JNU
TARGET: LJH1 SUBJ: H. JUDICIARY T/C, 2/3

OMNI #4

TO TESTIFY

9. PHILLIP WEIDER, 444 H STREET, ANCHORAGE 276-7000

MSG 83-00006055 PRTY 1 02/03/83 14:00:33 ORIG: LA08 IN= 0008 OUT= 0010
FROM: BARBARA IN ANC TO: JNU T/C
TARGET: LJH1 SUBJ: H. JUDICIARY T/C, 2/3

OMNI #2

TO TESTIFY:

7. JOHN B. LOHFF, 308 G ST., #303, ANCHORAGE 99501 276-8514

TO OBSERVE:

5. ELIZABETH MICHERRSON, 1024 W. 6TH, ANCHORAGE, 99501 274-1426

6. STEPHEN J. VAN GROOT, 308 G ST., #303, ANCHORAGE, 276-8514

MSG 83-00006059 PRTY 1 02/03/83 14:09:46 ORIG: LA08 IN= 0009 OUT= 0012
FROM: BARBARA IN ANCORALE TO: JNU T/C
TARGET: LJH1 SUBJ: H JUDICIARY T/C, 2/3

OMNI #3

TO TESTIFY:

8. TERESA CARNS, AK JUDICAL COUNCIL, 1031 W. 4TH, SUITE #301, ANC., 279-2526

WE HAVE 5 PEOPLE TO TESTIFY WHO WERE ALSO AT MONDAY'S H. JUDICIARY T/C....

ERIC SANDERS
RON DRATHMAN
HENRY CAMAROT
MICHAEL SCHNEIDER
JOHN LOHFF

THANKS FOR YOUR HELP.....

MSG 83-00006045 PRTY 1 02/03/83 13:46:30 ORIG: LF02 IN= 0001 OUT= 0008
FROM: ANNIE IN FAIRBANKS TO: JUNEAU T/C
TARGET: LJH1 SUBJ: JUDICIARY T/C 2/3/83

HERE TO TESTIFY IN FAIRBANKS:

JUDGE HUGH H. CONNELLY, 604 BARNETTE, ROOM 341, FAIRBANKS 99701 452-19251

2:35 3 FEB 83

MSG 83-00006040 PRTY 1 02/03/83 13:48:03 ORIG: LA08 IN= 0007 OUT= 0009
FROM: BARBARA IN ANC TO: JNU T/C
TARGET: LJH1 SUBJ: H. JUDICIARY T/C, 2/3

IN ANCHORAGE TO TESTIFY:

- will have written notes right suggested*
1. ^{PO} ERIC SANDER, 500 C STREET, ANC, 272-3538 *3 PM - 3 FEB 83*
 2. ^{PO} RON DRATHMAN, 444 H ST., ANC 276-7000 *3:05 - 3 FEB 83*
 3. MICHAEL, SCHNEIDER, 880 N ST., #200, ANC, 99501 277-4551
 4. ^{plus} HENRY CAMAROT, 310 K STREET, SUITE 500, ANC 276-6363 - *2:15 3 FEB*
 5. MARYANNE E. FOLEY, 227 E. 12TH AVE., #2, ANC 274-2890
 6. JULIE SIMON, 3812 SPENARD RD., ANC., 276-3125

TO OBSERVE:

1. PETER MYSING, 444 H STREET, ANC., 276-700
2. W. JOHN LOIN, 2531 NORTHRUP PLACE, ANC., 277-4194
3. JEFF BERLINER, ANCHORAGE TIMES, 820 W. 4TH, ANC., 278-5622
4. ELAINE ANDREW, 2131 BELAIR, ANC 272-7709 *3:30 3 FEB 83*

MSG 83-00006060 PRTY 1 02/03/83 14:10:44 ORIG: LV00 IN= 0003 OUT= 0014
FROM: FAT VALDEZ TO: JNO T/C
TARGET: LJH1 SUBJ: HB79, HOUSE JUDICIARY/PRE-EMPTION

PARTICIPANT... *Testify 3:25 3 FEB 83*

1. [?] WILLIAM BIXBY, BOX 1229, VALDEZ 99686 835-4775 ATTORNEY; COWAN, GILLESPIE & JEFFERSON *PDS*

Private Practice, formerly FBI

MSG 83-00006057 PRTY 1 02/03/83 14:00:44 ORIG: LR00 IN= 0013 OUT= 0011
FROM: FLORENCE IN BARROW TO: TIM/JUNEAU
TARGET: LJH1 SUBJ: (H) JUD ON HB 79 2/3/83

OMNI # 2

PARTICIPANT WHO WOULD LIKE TO TESTIFY:

✓
HAROLD CURRAN
BOX 69
BARROW, AK

2:55 - 3 FEB 83

852-2611

MSG 83-00006033 PRTY 1 02/03/83 13:30:14 ORIG: LL00 IN= 0003 OUT= 0004
FROM: DEE, SOLDOTNA TO: TIM/JUNEAU
TARGET: LJH1 SUBJ: H. JUD. DISQUALIFICATION JUDGES 2/3/83

OMNI ÷ 1

PARTICIPANTS

150 - 3 Feb 83

1. ALLAN BEISWENGER BOX 3519 SOLDOTNA, AK.. 2629164

E.O.M.

MSG 83-00006031 PRTY 1 02/03/83 13:30:18 ORIG: LF20 IN= 0004 OUT= 0005
FROM: LYNDY/FBX TO: ALL
TARGET: LJH1 SUBJ: HSE JUD T/C 2/3

FAIRBANKS HAS ONE PARTICIPANT TO TESTIFY:

135 - 3 Feb 83

1. ART ROBSON, R.V.B.A., 3568 GERAGHTY ST, FBX. 99701 PH 479-6281

HE WAS ONE OF THE FOLKS WHO WAS NOT ABLE TO TESTIFY AT THE LAST HEARING AND IS UNDER A TIME CONSTRAINT TODAY. WOULD IT BE POSSIBLE FOR HIM TO GIVE HIS TESTIMONY AS SOON AS POSSIBLE? THANK YOU.

-----EOM

MSG 83-00006034 PRTY 1 02/03/83 13:35:18 ORIG: LA08 IN= 0005 OUT= 0006
FROM: CANDY/ANCHORAGE TO: GAIL
TARGET: LJH1 SUBJ: *** HOUSE JUDICIARY T/C 2/3 *****

HAVE BEEN ASKED TO ALERT YOU THAT KBRI RADIO/HOMER WILL BE TAPING JUDGE HORNADAY.

ALSO, BARBARA WANTED ME TO MAKE SURE THAT YOU HAD RECIEVED HER OMNI EARLIER ABOUT HENRY CAMAROT'S TIME CONSTRAINT. HE MADE THIS REQUEST A DAY OR TWO AGO, AND IF AT ALL POSSIBLE WOULD LIKE TO SPEAK AT 12:15 AST, 2:15 PST.

THANKS

MSG 83-00004956 PRTY 1 01/31/83 13:48:19 ORIG: LA08 IN= 0008 OUT= 0009
FROM: INEZ/ANCH TO: JNU/TC
TARGET: LJHT SUBJ: HOUSE JUDICIARY TC

ANOTHER OBSERVER:
JOHN LOHFF

ANC

MSG 83-00004954 PRTY 1 01/31/83 13:42:40 ORIG: LA08 IN= 0007 OUT= 0008
FROM: INEZ/ANCH TO: JNU/TC
TARGET: LJHT SUBJ: HOUSE JUDICIARY

RON DRAFFMAN
P. WEIDER
RANDALL M. BURNS
BENNY CASAROT
WAYNE A. ROSS
ROBERT E. FOLEY
MICHAEL J. SCHNEIDER
JOY BOGNERLAND
LIGNE F. VALLENTINE
ELIZABETH PAGE KENNEDY

ANC

John Lohff

MS/6 S LAXXA

MSG 83-00004774 PRTY 1 01/31/83 14:18:54 ORIG: LR00 IN= 0006 OUT= 0012
FROM: FLORENCE IN BARROW TO: LAXTC
TARGET: LJHI SUBJ: (H) JUD T/C ON HB 79 1/31/83

HERE TO OBSERVE:

MICHAEL I. JEFFERY
SUPERIOR COURT JUDGE
BOX 270
BARROW, ALASKA 99723

852-4800

83-00004942 PRTY 1 01/31/83 13:23:51 ORIG: LF02 IN= 0002 OUT= 0003
FM: DEBBIE (FB) TO: TIM/JUNO
RGET: LJHI SUBJ: HB 79 T/C

SERVER:

DGE STEPHEN R. CLINE, BOX 73454, FAIRBANKS, AK 452-9249

ARE EXPECTING ~~THESE PERSONS~~ AT NOON. 2:00

83-00004945 PRTY 1 01/31/83 13:27:05 ORIG: LR00 IN= 0005 OUT= 0004
FM: HELEN/PTHEL
RGET: LJHI SUBJ: PARTICIPANT

THE ~~DATE AND TIME~~

~~FROM BARROW, ALASKA TO DETAIL, ANCHORAGE, ALASKA 01-31-83 14:18:54~~

ANC 1

7-00004972 PRTY 1 01/31/83 13:19:45 ORIG: LA08 IN= 6004 OUT= 0002
LARI ANCH TO: JRU
LJHI SUBJ: HOUSE JUDICIARY TC

THE PARTICIPANTS ARE:
~~T. THORNESS 309 W. 300 AVE, ANCH, 274 7522~~
~~M. BAILEY 310 K ST., SUITE 500 ANCH, 279-6546~~

7-00004947 PRTY 1 01/31/83 13:29:44 ORIG: LA08 IN= 0006 OUT= 0005
INEZ ANCH TO: JNO/ICE
LJHI SUBJ: HOUSE JUDICIARYB

THE ADDITIONAL PARTICIPANTS:

~~PCB~~
~~L. HUNT~~

~~vi Sanders~~

Michael Schneider

ANC 2

83-00004252 PRTY 1 01/31/83 13:34:04 ORIG: L100 IN= 0005 OUT= 0007
DE: JUNEAD T/C
ET: LORT SUBJ: ON GOING T/C 1/31/83 11:20 AM AST

CHAPPELL ANCH. DAILY NEWS BOX 4196 KENAI, AK. 283-3094

K.

83-00004950 PRTY 1 01/31/83 13:30:41 ORIG: L100 IN= 0005 OUT= 0006
: DOROTHY IN DILLINGHAM TO: JUNEAD TC
ET: LJM1 SUBJ: PARTICIPANT

WE HAVE ONE OBSERVER AT THE PRESENT TIME, AND AM EXPECTING ONE MORE POSSIBLY.

ETER AZHMAN, ALASKA COURT SYSTEM, BOX 200, DILLINGHAM, ALASKA 99576
TELEPHONE NUMBER IS 842-5215

83-00004986 PRTY 1 01/31/83 14:28:56 ORIG: L500 IN= 0009 OUT= 0013
FALEENE, SITKA TO: ALL SITES
ET: LJM1 SUBJ: 1/31/ H. JUD T/C

SERVE IS SITKA:

OTTE SWANBERG, TRIAL COURTS AT SITKA, BOX 910, SITKA, AK 99835,
PH. NO. 747-3291

OBSERVING, "MAY" WISH TO TESTIFY LATER:

CRASKE, JUDGE, BOX 910, SITKA, AK 99835, PH. NO. 747-6714

MSG 83-00005007 PRTY 1 01/31/83 15:07:19 ORIG LL00 IN= 0008 OUT= 0017
FROM: DEE,SOLDOTNA TO: JUNEAU T/C
TARGET: LJH1 SUBJ: HOUSE JUD. COMM. T/C 1/31/83 11:30 AST

ALLAN REISMENGER BOX 3519 SOLDOTNA, AK. 99669

ALLAN WOULD LIKE TO PARTICIPATE

E.O.M.

MSG 83-00004942 PRTY 1 01/31/83 13:52:54 ORIG: LF02 IN= 0003 OUT= 0010
FROM: DEBBIE ~~FEY~~ TO: TIM/JUNG
TARGET: LJH1 SUBJ: HB 79 T/C

JUDGE JANE KAUVAR HAS ARRIVED. SHE MAY WISH TO TESTIFY.
604 BARNETTE, FAIRBANKS, AK 99701 452-9248

MSG 83-00005024 PRTY 1 01/31/83 15:24:03 ORIG: LK00 IN= 0005 OUT= 0020
FROM: JUNE/JRECHIKAN TO: ALL SITES
TARGET: LJH1 SUBJ: 1/31 HOUSE JUD. T/C

ALTHOUGH INTERESTED WAS EXPRESSED DURING MY CONTACTS, NO ONE HAS
ARRIVED TO PARTICIPATE.

EDM/JR

MSG 83-00005026 PRTY 1 01/31/83 15:27:19 ORIG: LF02 IN= 0005 OUT= 0021
FROM: DEBBIE (FBX) TO: TIM/JUNO
TARGET: LJH1 SUBJ: HB 79 T/C

ADDITIONAL PARTICIPANT:

ART ROBSON, TANANA VALLEY BAR ASS., 3568 GERAGHTY ST., FBX, 99701 479-6281

MR. ROBSON IS OUR LAST WITNESS.

MSG 83-00005027 PRTY 1 01/31/83 15:12:03 ORIG: LV00 IN= 0007 OUT= 0018
FROM: VAL DEZ TO: JNO T/C
TARGET: LJH1 SUBJ: HB 79 T/C

TO PARTICIPATE...

WILLIAM O. BY

VAL DEZ, of 99050 825-4775

MSG 83-00005022 PRTY 1 01/31/83 15:21:00 ORIG: LS00 IN= 0012 OUT= 0019
FROM: FALEENE, SITKA TO: TIM, JUNEAU, ALL
TARGET: LJH1 SUBJ: 1/31 H. JUD T/C

SITKA'S OBSERVER, JUDGE DUANE CRASKE, DOES NOT WISH TO TESTIFY.

MSG 83-00004999 PRTY 1 01/31/83 14:57:02 ORIG: LA08 IN= 0016 OUT= 0016
FROM: BARBARA IN ANC TO: TIM IN JNU
TARGET: LJM1 SUBJ: HOUSE JUDICIARY T/C , JAN . 31

NAMES AND ADDRESSES OF OUR PARTICIPANTS AND OBSERVERS:

1. T DAVID H. THORSNESS, 509 W. 3RD AVE., ANCHORAGE 99501 274-7522
2. T ALLEN N. BAILEY, 310 K ST., SUITE 508, ANCHORAGE 99501 279-6546
3. T TIM LYNCH, 601 W. 5TH AVE., ANCHORAGE, 99501
4. T KAREN L. HUNT, 1007 W. 3RD, SUITE #400, ANCHORAGE, 99501 279-3581
5. ERIC SANDERS, 500 C STREET, #400, ANCHORAGE 99501 272-3538
6. RON DRATHMAN, 444 H STREET, ANCHORAGE 278-7000
7. P. WEIDEL, 444 H STREET, ANCHORAGE 276-7000
8. RANDALL P. BURNS, 360 K STREET, # 105, ANCHORAGE, 272-7469
9. HENRY CAMAROT, SUITE 500, 310 K STREET, ANCHORAGE, 276-6363
10. WAYNE A ROSS, 1007 W. 3RD, SUITE 304, ANCHORAGE, 276-5307
11. ROBERT D. FRENS,
12. MICHAEL SCHNEIDER, 880 N STREET, # 202, ANCHORAGE, 99501 277-4551
13. JODY W. SUTHERLAND
14. DIAHE F. VALLENTINE, 255 W. FIREWEED, ANCHORAGE 99503 277-1604
15. ELIZETH PAGE KENNEDY, 1031 W. 4TH, SUITE 200, ANCHORAGE, 99504 276-3550
16. JOHN R. LOHFF, 308 G STREET, #303, ANCHORAGE, 99501 276-8514

MSG 83-00004994 PRTY 1 01/31/83 14:37:04 ORIG: LA08 IN= 0009 OUT= 0014
FROM: BARBARA IN ANC TO: TIM IN JNU
TARGET: LJM1 SUBJ: HOUSE JUDICIARY T/C JAN 31

JUST RECEIVED YOUR MESSAGE.

OPENED BY
MICHAEL SCHNEIDER

QUESTION-

- ERIC SANDERS
- RON DRATHMAN
- WEIDEL
- HENRY CAMAROT
- WAYNE A ROSS
- DIAHE F. VALLENTINE

MSG 83-00004997 PRTY 1 01/31/83 14:42:40 ORIG: LF02 IN= 0004 OUT= 0015
FROM: DEBBIE/EBY TO: TIM/JUD
TARGET: LJM1 SUBJ: HR 79

~~WHERE ELSE YOU WOULD LIKE TO TESTIFY WHEN YOU COME BACK TO FAIRBANKS~~

ADDITIONAL OBSERVERS:

- JUDGE CONNELLY, 604 BARBETTE RM 341, FAIRBANKS 452-9251
(HE MAY WISH TO MAKE COMMENTS LATER)
- JUDGE H. E. CRUTCHFIELD, 1811 CROSSON AVE., FAIRBANKS, 99701 456-5630
- EARL SLATER, ALASKA COURT SYSTEM, SR BOX 70746, FBX 99701

HB 79

JR

peremptory

Judicial challenge bill stands

Senate next to consider Fritz bill on challenges

A House bill to eliminate the right of attorneys to disqualify a judge without stating a cause will move to the Senate after its sponsor abandoned efforts to convince more representatives to support the legislation.

Rep. Milo Fritz, R-Anchor Point, sponsored the bill to repeal peremptory challenges (the legal term for removing a judge from a case without stating a cause). In addition to a state statute allowing those challenges, the state court system has a rule implementing the law. While the statute may be repealed with a simple majority vote, eliminating the court rule requires a two-thirds majority.

Fritz's bill passed the House by a 24-13 margin last week. With that margin, the portion of the bill repealing the statute could take effect if passed by the Senate and signed by the governor. The portion of the bill repealing the court rule would not be effective, because 27 votes, or a two-thirds

margin, was not reached.

On Thursday, Fritz said he would ask for reconsideration in hopes of picking up the additional votes. Fritz's aide, David Schade, said Monday that reconsideration was not asked for because support from some representatives was wavering. "If you have a sure thing, keep it," he said.

Schade also reiterated Supreme Court Chief Justice Edmond Burke's comment that the court would change its rules voluntarily if the statute was changed.

The peremptory challenge law came under fire last fall after the court system announced that Homer District Court Judge James Hornaday would be transferred to Anchorage on June 1. The reason for the transfer, court officials said, was that in more than 80 percent of the criminal cases to come before Hornaday, attorneys were disqualifying him without cause.

Clarion

PENINSULA CLARION

Complimentary Copy
For

MEMBERS OF THE LEGISLATURE
flown to Anchorage courtesy of
ALASKA AERONAUTICAL INDUSTRIES
flown to Juneau courtesy of
ALASKA AIRLINES

The Peninsula Clarion / U.S.P.S. 438-410.

Kenai, Alaska 25 cents

House passes repeal of judicial challenge law

Reconsideration asked in try for larger margin

A House bill to repeal the right of attorneys to disqualify a judge from a case without cause passed by a 25-13 margin Wednesday, but the bill's author still asked legislators to reconsider their vote.

Rep. Milo Fritz, R-Anchorage, said he is asking for reconsideration in hopes of getting 27 votes, a two-thirds majority. He expected that vote to come today or Monday.

Rep. Hugh Malone, D-Kenai, voted against the bill.

A two-thirds majority is required to repeal a court system rule which implements the challenge without cause (legally called a peremptory challenge) statute. If the 27-vote mark is not reached, the bill repealing the statute only would still

pass and go to the Senate. If passed there and signed into law, the court rule could still stand, although many judges would like to see the law done away with.

"The only indication we've had on the court rule is the 17 judges that were interviewed. They all agreed, along with the Supreme Court Chief Justice, that they would welcome any opportunity to change the law," Fritz said Thursday.

Supreme Court Chief Justice Edmond Burke said in a public hearing in Homer that the court rule would not be maintained if the Legislature repealed the peremptory challenge statute.

See AREA, Page 24

...Area legislation

Continued from Page 1

The issue of peremptory challenges arose because Homer District Court Judge James Hornaday was being challenged in more than 80 percent of the criminal cases to come before him.

Third Judicial District Presiding Judge Mark Rowland transferred Hornaday to Anchorage but delayed the move to June 1.

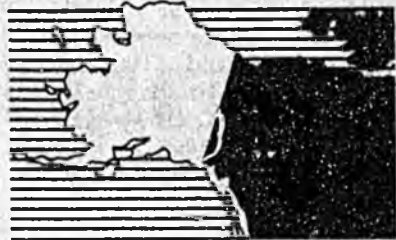
Bill would stop peremptory challenge of judges

The Associated Press

JUNEAU — The Alaska House by a 24-13 vote has passed a bill to eliminate the peremptory challenge of judges, but it rejected a change in court rules that take precedence over legislative mandates.

Another attempt to change court rules was expected today on a notice of reconsideration filed by the bill's sponsor, Rep. Milo Fritz, R-Anchorage Point.

A change in court rules would have required a two-thirds vote in the House, or 27 votes, but the court rule



amendment mustered only 23.

The peremptory challenge has come under fire because of the highly publicized case of District Court Judge James Hornaday of Homer. He has been disqualified by challenges in 80 percent of his recent cases, after he said he

automatically would sentence first-time drunken drivers to 15 days in jail.

The vote on the bill (HB79) came after nearly two hours of debate on the measure and an amendment proposed by Rep. Ron Wendte, D-Ketchikan. Wendte's amendment would have made all challenges qualified, but it was defeated.

Describing the bill as overkill, Wendte said his change was an attempt to "strike middle ground and provide that peremptory challenges be maintained but put the burden on the client and his

attorney."

Calling the middle ground unobtainable, Judiciary Chairman Charlie Bussell, R-Anchorage, said the amendment would allow clerks in attorneys' offices to offer superfluous reasoning on challenges.

Rep. Don Clocksin, D-Anchorage, said that Wendte's amendment would not allow the challenges to be eliminated.

Rep. Niilo Koponen, D-Fairbanks, said the bill is an issue over the right to a fair trial, which was the reason for the peremptory challenge

becoming a part of court procedures.

The amendment would "at least make the right (of a fair trial) accountable," said Rep. Hugh Malone, D-Kenai.

But Rep. Tony Vaska, D-Bethel, said the elimination of the peremptory challenge would allow prejudice to remain in the court system.

"Prejudice means to me stiffer sentences for blacks, Chicanos and Alaska Natives," he said. "The public should have a fair hearing at all times, not with a judge who is prejudiced."

TIMES 2-24-83

House passes judge challenge bill

Associated Press

Juneau — The Alaska House passed by a 24-13 vote on Wednesday a bill to eliminate the peremptory challenge of judges.

A change in court rules would have required a two-thirds vote in the House, or 27 votes, but the court rule amendment mustered only 23.

The peremptory challenge has come under fire because of the highly publicized case of District Court Judge James Hornaday of Homer. He has been disqualified in 80 percent of his recent cases, after he said he automatically would sentence first-time drunk drivers to 15 days in jail.

The vote on the bill came after nearly two hours of debate on the measure and an amendment proposed by Rep. Ron Wendte, D-Ketchikan. The amendment would have made all challenges qualified, but it was defeated.

Describing the bill as "overkill," Wendte said his change was an attempt to "strike middle

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But Rep. Tony Vaska, D-Bethel, said the elimination of the peremptory challenge would allow prejudice to remain in the court system.

"Prejudice means to me stiffer sentences for blacks, Chicanos and Alaska natives," he said. "The public should have a fair hearing at all times, not with a judge who is prejudiced. A fair hearing in every case; that's what justice is all about."

Koponen said the bill "will be known as the Lawyers' Full Em-

ployment Act of 1983."

In other action, the House rejected a change in court rules that take precedence over legislative mandates.

Another attempt to change court rules was expected Friday on a notice of reconsideration filed by the its sponsor, Rep. Milo Fritz, R-Anchor Point.

Malone questioned on judicial challenge stand

To the editor:

Clayton
2-25-83

An open letter to Rep. Hugh Malone:

I understand you are a surveyor. I hope you get your transit out and take a good look at where you're going, as I understand you opposed the Milo Fritz bill which would repeal the law of peremptory challenge. By letting this law stay in running Judge Hornaday out of Homer, do you for one think this will solve the problem?

When there is a new judge assigned, regardless of his attitude toward drunken driving and other crimes, this will only tell lawyers who use this law to load their pockets with taxpayers' money. Apparently Chief Justice Burke and Judge Rowland want to keep this law on the books, perhaps for the day when they topple and have to take defending drunken drivers. I am told when Judge Rowland was a visiting judge in

Homer, he apparently wasn't interested in saving taxpayers money, as he flew his own plane, landing on Lake Beluga. Another visiting judge recently, along with a district attorney and a game warden, were seen as they ran aground on the bar and he was so hard aground, he didn't show up to court till 2 p.m. the next afternoon. Judge Hornaday is a skilled navigator and keeps his ship off the bar.

If this peremptory law is so all-fired necessary, why not put our courts on a paying basis and let them pay for visiting judges, instead of having people who are able to survive the drunken drivers, as in most states one found guilty or the loser in a civil action is required to pay the cost of court. As of now, we the taxpayers are not only paying the cost, we're also paying for a public defender who apparently uses excess time with this peremptory or other laws, stalling to feather his own nest, telling

Letters to the editor

people who want to plead guilty to plead not guilty so they can run up expense. Also, I know of one case where a man had a quite steady job on the Slope and a public defender, defending him on a criminal trespass case.

WHO is paying?

I'm almost to the point of advocating a repeat of history, as was in Colonial Williamsburg, Virginia, in 1658.

I hope you'll see the light.

Some questions for anyone interested in such subjects:

1. Why not breath-test equipment in all bars and places liquor is sold?
2. Why not let the people vote for all

judgeships as long as we are paying their salaries?

3. Why couldn't we send other perempted judges for a Homer visiting judge?

4. Why, as heard on a teleconference before a committee, are three Anchorage judges not sent as visiting judges to Homer — maybe too tough or lawyers can't dictate to?

5. I am told you are against the bill, Rep. Malone. Why?

I and many of the voters are watching see if our representatives are satisfying will of the people.

Calvin H. Hand
Anchor Point

Bill would stop peremptory challenge of judges

The Associated Press

JUNEAU — The Alaska House by a 24-13 vote has passed a bill to eliminate the peremptory challenge of judges, but it rejected a change in court rules that take precedence over legislative mandates.

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Describing the bill as overkill, Wendte said his change was an attempt to "strike middle ground and provide that peremptory challenges be maintained but put the burden on the client and his

attorney."

Calling the middle ground unobtainable, Judiciary Chairman Charlie Bussell, R-Anchorage, said the amendment would allow clerks in attorneys' offices to offer superfluous reasoning on challenges.

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Peninsula Clarion
2/10/83

Judge ban repeal law advances

JUNEAU — A bill repealing the right of attorneys to disqualify judges without stating a reason was given a "do pass" recommendation Wednesday by the House Judiciary Committee.

Also on Wednesday, the Senate Finance Committee passed to the full Senate the supplemental appropriations bill for school districts.

Rep. Hugh Malone, D-Kenai, voted against passing the judicial bill, sponsored by Rep. Milo Fritz, R-Anchor Point.

Malone said Wednesday he supports changing the current method of allowing attorneys to disqualify one judge in a case without stating a reason. The law allowing disqualification for cause should stay, he said. Under that law, a hearing to determine whether changing judges is appropriate is held in each case.

A law taking the middle ground, where attorneys would have to state a cause under oath, but no hearing would held, should be passed, he said. Malone said when the bill reaches the floor, he would propose amendments to accomplish his preferred procedure.

"I'd like to know the reasons why judges are being challenged," he said. "I also loathe to take away a right without a clear showing that the right is unnecessary or that it is being used in such a way that it is causing a hardship."

Sen. Don Gilman, R-Kenai, Wednesday reported that the Senate Finance Committee has voted to pass the supplemental appropriation bill for school districts to the Senate floor. The bill passed the House last week and Gilman said he expected it to pass the Senate within a few days. The bill appropriates \$23.5 million for schools.

"It was refreshing to see the bill go through. It was straightforward, and no one tried to tack on anything," he said.

Gilman also reported that two other bills that he introduced are moving through the Senate committee structure. A bill providing a supplemental appropriation for the Department of Environmental Conservation for water and sewer projects and to municipalities for Municipal Assistance will be heard by the Finance Committee Tuesday and Wednesday next week. The bills received "do pass" recommendations by the Senate Community and Regional Affairs Committee.

Judge blames lawyers for

Lawyers counter that challenges are needed to guarantee fairness

By CHRIS JARVIS
Empire Staff Reporter

Lawyers, not judges, are to blame for the high frequency with which some judges are disqualified from cases, Juneau District Court Judge Gerald O. Williams

said today.

Williams is frequently disqualified from hearing cases because, in his opinion, "Alaska is the most lawyer-whipped state in a lawyer-whipped country."

Williams and Juneau Superior Court

Judge Rodger Pegues have been named as two of six Alaska trial judges most frequently disqualified from cases. Pegues is on vacation and was unavailable for comment.

Alaska Court Administrator Art Snowden said the peremptory challenges, which allow lawyers to ask for a different judge without stating a reason, are an "administrative nightmare," noting it costs the state an estimated \$30,000 a year to fly judges into a jurisdiction to hear a case.

high disqualification rate

Williams, a former Alaska State Trooper, said members of the bench should not be blamed.

Williams said it is his responsibility to make sure a person accused of a crime is brought to trial within 120 days of his arrest, he said. He thinks peremptory challenges are often used to prolong the time before trial.

Lawyers generally disagree.

"I don't know of any attorney" who uses peremptory challenges only to prolong

cases, said lawyer Richard Burnham.

According to current rules, an attorney on either side of a case can request a judge be disqualified without giving a reason.

Requiring attorneys to say why a judge should be disqualified would present problems if a judge is not disqualified and the attorney must then argue a case before him, Burnham said.

Although acknowledging it costs money to fly a judge to hear the cases of a disqualified judge, Burnham said there are

other solutions to the problem. For example, he said, a superior court judge could hear district court cases or, if that is not possible, another district judge could be hired.

"It doesn't seem to me the goal of the judicial system is to run cheaply. It's to give people their day in court," Burnham said.

Williams, however, said if a case is prolonged long enough, eventually a case

Continued on Page 2

Judge...

Continued from Page 1

could be dismissed because the time limit for trial has been passed.

Admitting he is sometimes curt when on the bench, Williams said he finds it difficult to "put someone in jail in a nice way."

He defended his record, saying he treats everyone who is convicted in his court in the same way.

"I've still got friends who are mad at me (for sentencing them to jail), but it goes with the turf," he said.

"I admit I'm old fashioned," Williams said. He seldom likes to grant delays in

court proceedings because cases often end up dismissed when delayed too long, he said.

Peremptory challenges are often used by attorneys in a "tactical and strategic" manner, Williams said.

Of defense attorneys, Williams said, "it is in their interest to prolong to avoid a trial."

However, it is not always in the best interest of the defendant, Williams said. Peremptory challenges and continuances might result in an attorney's client staying in jail, if not able to make bail, he said.

It is the court's responsibility to assure efficiency in the system especially with criminal case loads in Juneau almost

doubling in four years, he said.

Sometimes 30 to 60 days will have elapsed days since a person's arrest before making the first court appearance. That leaves as few as 60 days before the case may go to trial, Williams said, noting motions for continuances, if granted, could extend beyond the 120 day limit.

Although some people who see Williams on the bench for the first time might see him as "a combination of Atilla the Hun and Genghis Kahn," he said it is because his experience has taught him he must be absolute when passing judgment.

"I may appear curt in court but I've learned through experience that you've got to do it," he said.

Pre-emption of judges 'disruptive'

by Jeff Berliner
Times Writer

TIMES
2-6-83

A handful of state judges are "disrupting" the state court system because they are removed from cases so frequently, says state court administrator Art Snowden.

Court records show that one Anchorage judge and five other judges from around the state are excused from cases far more than their colleagues.

Although the current debate over pre-emptions has focused on Homer District Court Judge James Hornaday, he is not the only judge regularly excused from cases by lawyers. There are 42 trial judges in the state, (the eight appellate judges may not be pre-empted), and lawyers routinely excuse six of them.

According to court records, in addition to Hornaday, the judges being regularly bumped from
See Judges, page A-4

A-4 The Anchorage Times, Sunday, February 6, 1983

Judges

(Continued from page A-1)
cases are Juneau District Court Judge Gerald Williams, Fairbanks District Court Judge Stephen Cline, Anchorage Superior Court Judge Karl Johnstone, Juneau Superior Court Judge Roger Pegues, and Wrangell Superior Court Judge Henry Keene.

By law, attorneys have a right of pre-emption, called peremptory challenge, which means that each side in a case may excuse the judge assigned to that case one time. The parties involved do not have to state the reason. Lawyers have five days from the initiation of a case to file a notice for a change of judge. The legislature is now considering a bill to repeal lawyers' right to pre-empt a judge.

Court officials have called the pre-emption an "administrative nightmare" because of the problems in reassigning judges.

"It is more efficient without it,"

Snowden said, adding that the court system has not taken a policy on the peremptory challenge and is probably split on the issue.

Snowden called it "a disruption" that costs the state court system an average of \$30,000 yearly in extra costs of reassigning cases to other judges.

The biggest expense, Snowden said, is paying travel and expense money to have judges journey to one-judge areas to fill in where the only judge in town has been legally removed from a case.

That has happened so much in Homer that Hornaday has been ordered to pack up, leave town, and don his judicial robes in Anchorage. Even if lawyers pre-empt him there, the reasoning is, there are other judges to fill in. Presiding Judge Mark Rowland ordered Hornaday to move to Anchorage by June 1 to fill a judicial vacancy here.

Hornaday has been pre-empted from about 84 percent of the criminal cases assigned to him. His law-

yer, Henry Camarot, claims that Hornaday is pre-empted 8 percent of the time when all his cases are considered.

Cline, Williams and Johnstone are taken off cases up to half the time. All four of the most pre-empted judges have been retained in office by voters in recent elections.

Johnstone, the only Anchorage judge regularly excused, is also the only judge who hears civil cases almost exclusively. The others regularly hear criminal cases, too. Johnstone is pre-empted three times more than all the other Anchorage Superior Court civil judges put together, and his pre-emptions climbed to a high of 20 in December. Judges are assigned between 30 and 40 new cases monthly. Johnstone was pre-empted 153 times in 1982, up from 71 in 1981. And although Johnstone said last summer that his pre-emp-

tions were going down, court records show they are on the rise.

But in Anchorage, the state's biggest judicial district, Johnstone's cases are simply reassigned to another Anchorage judge. That can't be done in Homer, where Hornaday is the only judge. His removal means that court administrators have to send in another judge to hear Hornaday's cases.

Last week the House Judiciary Committee held two days of hearings on the bill to abolish the pre-emption. Lawyers argued against the bill, claiming the pre-emption is used to excuse a judge who may not give their client a "fair shake."

Both defense attorneys and Anchorage municipal prosecutor Allen Bailey argued for keeping pre-emptions around so they have a tool to excuse a judge they think is either too lenient or too harsh when it comes to sentencing.

2-2-83 Anchorage

Homer residents still trying to keep judge

By **RONNIE CHAPPELL**
Daily News correspondent

HOMER — The residents of this Kachemak Bay community apparently are willing to give up their right to pre-empt judges without legal cause in order to keep District Court Judge James C. Hornaday in Homer.

Opponents of Hornaday's pending transfer to Anchorage took their fight to the halls of the State Capitol Monday and urged the House Judiciary Committee to support a proposed bill that would bar lawyers from disqualifying judges without cause.

The bill is sponsored by Rep. Milo Fritz, R-Anchorage, who told the committee that lawyers in Homer were abusing the right of peremptory chal-

lenge for the sake of "indulging in a vendetta against Hornaday."

A past president of the Alaska Bar Association, a judge, an Anchorage prosecutor and the Alaska Department of Law all testified against passage.

Early last year Hornaday announced plans to begin sentencing first time drunken drivers to 15 days in jail. The stance earned Hornaday the respect of the community at large, but incurred the wrath of defendants and local lawyers, who began asking that their cases be tried by other judges.

"Attorneys have usurped and abused the system," testified Wayne Kessler, chairman of an ad hoc committee that is fighting Hornaday's transfer. Speaking through the state teleconference system,

Kessler charged that often lawyers use peremptory challenges for personal and political reasons. "The idea that the clients are the ones preempting the judges is totally assinine," Kessler said.

Homer City Councilwoman Gail Phillips and Homer High School teacher Wayne Lee joined Kessler in urging passage of the bill.

However, Fairbanks District Court Judge Jane Kauver advised the committee that changing the law would do little to remedy the existing problem. "Judges getting challenged peremptorily will be challenged for cause," Kauver said. The result, she said, will be damaging hearings that tie up court time, drive up the cost of litigation and result in hard feelings.

What others say

Times - 1-25-83

From The Peninsula Clarion, Kenal

HORNADAY'S transfer is only the battle — the war is the larger question of whether attorneys should be armed with the right to disqualify without cause a judge assigned to hear a case. There is no suggestion that attorneys

be limited in their right to challenge for cause. Indeed, it is a vital right for those accused of crime. However, it is suggested that they should not be able to use peremptory disqualification.

Kenai C of C:

Stiffer DWI sentences but keep pre-emption

C/N 1/4/83

The Kenai Chamber of Commerce Board has come out for stiffer drunk driving sentences but chose not to support the house bill pre-filed by Rep. Milo Fritz which would eliminate pre-emption of judges by defendants without stated cause.

But the subject will be in for more discussion when the Chamber Board meets again Friday noon, said Chamber secretary Peggy Arness. Some of the Board members are not satisfied that the Chamber took a strong enough stand, and Board members are getting phone calls, said Mrs. Arness.

About 12 of the 16 Board members attended Friday's meeting. At that time all "went along" with the Board's stand on stiffer sentencing and non-support of the proposed pre-emptory bill.

Influencing the Board's decision was attorney Ed Garnett, a Chamber Board member, who defended preemptions which have taken Judge James Hornaday off the Homer Superior Court bench so often he may be transferred.

Judge Mark Rowland has said Hornaday could remain in Homer if the legislature made changes in the pre-emptory bill. Hornaday has been preempted on 80 percent of his cases, at least partially because of his announced tough sentences for drunk drivers.

But Garnett stated Hornaday had more than his share of preemptions even before his stand on drunk driving.

An earlier letter from the Chamber to the Homer task force to retain Hornaday in Homer, expressed Chamber support of the group's efforts.

Assembly balks at backing Homer judge retention

Gene McBride hopefully suggested a "unanimous consent" for a Borough Assembly resolution asking that the transferring of District Judge James C. Hornaday from Homer be set aside, but differing opinions greeted the resolution which went down to defeat on a six to nine vote.

Brentley Keene of Homer, despite his community's strong show of sentiment favoring Hornaday's retention, stated he believed the resolution was "not the type of thing the Assembly should be dealing with."

Marilyn Dimmick also thought it an area the Assembly shouldn't be delving into, confusing the good feeling for Hornaday

by expanding the resolution to proposing mandatory sentences for drunk drivers and limiting pre-emptory disqualification of judges which has plagued Hornaday and brought his transfer orders.

But Tommy Corr of Kalifonsky Beach thought the resolution was the type of thing the Assembly should be doing.

Corr also supported the right of Raymond Gillespie, Seward attorney, to vote on the issue. Attorneys have been solidly opposed to weakening the pre-emptory rights, a prospect which has arisen with support of Hornaday. Gillespie's voting had been questioned by Chuck Crapuchettes.

Support for the resolution

came from Betty Glick, Onis King, Corr, Crapuchettes, McBride, and Mrs. McGahan. Opposed were John Crawford, Dave Carey, Don McCloud, Joe Arness, John Douglas, Kenn Stephens, Keene, Gillespie, and Mrs. Dimmick. Sharon Jean was absent.

Mrs. McGahan earlier offered a resolution deleting the section calling for a review of the pre-emption without cause and expressed personal feelings. "I know one judge I would like to preempt. No cause; it's just that we don't agree on anything." But her motion went down 5 to 10.

Corr's motion to delete the section asking for mandatory drunk driving sentences also was beaten, 5 to 10.

Around the Peninsula...

C-N 11/4/83
Homer drunk driving arrests in 1982 more than doubled over 1981 (171 compared to 84), according to the *Homer News*. Early in 1982, alarmed about a 30 percent increase in drunk driving over the previous year, Judge James Hornaday stiffened sentences. But preemptory challenges have prevented him from hearing 80 percent of the criminal cases, including DWI cases.

The trend does not appear to have changed for 1983. Two were brought to court on drunk driving charges the second day of the new year. One had almost made it home, within 50 feet despite a .23 breathalyzer test result. According to law, a driver testing at .15 is drunk.

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Mark Andrews
Supervising Attorney
Alaska Legal Services
Bethel, Alaska

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Andrews:

Thank you for taking the time to give the Committee your comments via Teleconference during our hearing process on HB 79.

On Wednesday, February 25, 1983, HB 79 was brought before the House for second reading and debate. After nearly two hours of debate and one attempt at having the bill amended, HB 79 was advanced to third reading and voted on by the body.

A copy of the House Journal covering action by the House for its thirty-eighth day is enclosed and shows the voting and progress of HB 79 as it passed the House. At the close of the floor action for the day on HB 79, Representative Fritz gave notice of reconsideration of his vote, which carries the bill to the next legislative day for another vote if brought up at that time.

On the next legislative day, HB 79 was not again brought up, so it has passed the House as shown in the Journal for the thirty-eighth day.

Thank you again for taking the time to become involved with the legislative process.

Regards,

A handwritten signature in cursive script, appearing to read "Charlie Bussell".

Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:cmz

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Wayne Lee
Sterling Highway
Homer, Alaska

RE: HB 79 Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Lee:

Thank you for taking the time to give the Committee your comments via Teleconference during our hearing process on HB 79.

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Judge Stephen Cline
Box 73454
Fairbanks, Alaska

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Judge Cline:

Thank you for taking the time to give the Committee your comments via Teleconference during our hearing process on HB 79.


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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Henry Camarot
310 K Street, Suite 500
Anchorage, Alaska 99501

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Camarot:

Thank you for taking the time to give the Committee your comments via Teleconference during our hearing process on HB 79.

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Harold Curran
Box 69
Barrow, Alaska 99723

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Curran:

Thank you for taking the time to give the Committee your comments via Teleconference during our hearing process on HB 79.

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Judge James D. Hornaday
Box 134
Homer, Alaska 99603

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Judge Hornaday:

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Chairman, Committee on Judiciary

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Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

George Peck
Box 596
Seward, Alaska 99664

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Peck:

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Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

John Rate
Box 2169
Homer, Alaska 99603

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Rate:

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Chairman, Committee on Judiciary

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Ed Bailey
PO Box 2994
Homer, Alaska 99603

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Bailey:

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Chairman, Committee on Judiciary

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Calvin Hand
Str 490
Anchor Point, Alaska 99556

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

Dear Mr. Hand:

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Representative Charlie Bussell
Chairman, Committee on Judiciary.

CB:cmz

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Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 28, 1983

Wayne Kessler
Box 1243
Homer, Alaska

RE: HB 79, Legislation Pertaining to Peremptory
Disqualification

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Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:cmz

TESTIMONY OF JUDGE JAMES D. HORNADAY, HOMER
February 2, 1983

Mr. Chairman and ladies and gentlemen of the Committee, thank you for holding this hearing and inviting me to address the Committee. I hope I am not the monster judge that everyone has been talking about. My name is James D. Hornaday and from a perspective of nearly 20 years in Alaska I am speaking to you today as a judge. The judicial cannons permit and even require that judges speak out for the improvement of the administration of justice. And with all of the comments by many of my lawyer friends I feel a little like David when he went up against Goliath. The men and women of good will can and do differ in their opinions, and it does remind a little of the old Alaska adage that if the lawyers are against something it must be worthwhile. I wish it were someone else who was on the line rather than me, frankly I would rather be playing basketball or working on a legal history project. But the question of the peremptory challenge is involved with the independence of the judiciary and the decreasing respect for the judiciary. First of all, the peremptory challenge is not a fundamental constitutional right; it does not even exist anywhere in the Federal system, and there are Federal judges in every state and territory. Apparently it does not even exist in the vast majority, about two-thirds of the states. Alaska is in the extreme minority. It did not exist in Alaska until a few years ago when some lawyers pushed it through the Legislature. The Federal system and the majority of states get along just fine without it. Now as one example, drunk driving cases are the most serious problem facing the Alaska Court System. Over half of all the jury trials in the entire Court System are drunk driving cases. Drinking was involved in over 80% of the traffic fatalities; over 200 thousand are killed or injured annually on our nation's highways. Let's make clear what the Legislature has already done; the Legislature has passed legislation providing for up to one year in jail and \$5,000 fine, revocation of licenses and community work. Now the statutes specifically states that for the first offense a defendant is to receive not less than 72 consecutive hours. It is too serious a problem to leave in the hands of the attorneys and that is the none effect of the peremptory challenge without cause. Judges are concerned about the peremptory challenge; it is affecting sentences. The Chief Justice has stated publicly that the peremptory challenge moderates sentences and that a judge has to walk a fine line and if they get too far over they will be removed by the peremption. I was told by the presiding judge that I had to take peremptions into consideration when I sentence. It is the most frequent topic of conversation at the Annual Judicial Conference. The leading authority on court delay called the Alaska peremptory challenge an absolute abomination, those were his words. Representatives of the National Center of State Courts were amazed at the existence of the removal without cause. I have heard judges tell the Chief Justice they are concerned about the peremption. It is a problem state-wide, not just in Homer. You have heard the lawyer in Bethel and the problems there. You've heard the judges in Fairbanks. It exists in Kodiak, Ketchikan, Juneau and all over the state, even in multi-judge areas. Now we announced a pattern of sentencing in drunk driving cases in Homer about a year ago which was effective, but sentences were clearly within the sentences permitted by the Legislature. Fifteen days is less than 5% of the maximum penalty. Although the announced pattern is no longer in effect and was rescinded when the higher court ruled that it could not be applied. There are sentencing patterns in Alaska, attorneys keep records of the sentences of judges. So there are patterns but known only to the judges and the lawyers. The public, including the potential defenders, do not know the patterns. It is time to open up the System and bring it out from behind the closed doors of the

legal profession. Now I was a lawyer for 10 years and you are never going to satisfy the lawyers on sentencing. About 6 years ago we initiated the first work program, alternate work program, for drunk drivers in Alaska. Some lawyers supported, but other complained that work was a cruel and unusual punishment. Now the program has been reinstated pursuant to the community work which the Legislature has made a sentencing tool. Now the lawyers are complaining that we are giving too much community work. Also the argument that the System would be flooded with time consuming challenges for cause is questionable, as several attorneys have indicated that they would not use challenges for cause. Further the presiding judge denied a challenge because against me on hearing a DWI case after the announced policy was rescinded. The hearing took all of 10 minutes. The Court System and the people of Alaska should not be held hostage by attorneys threatening to plug the System with challenges for cause. Further judges will disqualify themselves if for some reason they should not hear a case. There is already a procedure for this approach that is in effect. However, again note that a judge has to give a reason why they are disqualifying themselves. Related to the peremptory challenge is another deep concern which I have as a 20 year Alaskan and as a lawyer and a judge and a citizen, and that is the growing lack of respect for the Alaska Judiciary among the members of the public. Reportedly, concern over the Justice System trailed only the capitol move and subsistence in intensity in the recent election. Almost half of the voters in the Third District voted not to retain the trial judges last November. This negative vote is up nearly 10% in only 4 years. How many years will it be before all judges are defeated? Some of the longer serving judges remember when they received 85% approval ratings. For the first time in nearly 20 years in the legal profession, so many people told me they were voting against all of the judges that I lost count. And note that, at least to-date, that most of the people, most of the lay people, testifying to you are against the peremption, only the lawyers are testifying before you in favor of it. That should tell you something. We pride ourselves in Alaska on the merit selection appointment procedure for judges. The Judicial Council recommends the Governor appoints and the people vote, and yet the present situation with the peremptory challenge is worse than the most partisan political election of judges, and that a very few attorneys can remove a judge and hold the System hostage. The cost to the public and the wasted expense and time is high. The selection process of which we are so proud and the public vote means absolutely nothing. Just as an example, I was required to move to Homer to take the judgeship in Homer. The Judicial Council recommended me for Homer and the Governor specifically appointed me to Homer. The family moved here and has put down deep roots; we have children in school of all ages. I received good ratings from the lawyers and the highest rating from the Alaska Peace Officers and was retained overwhelming by the voters in the November election in my home area by a 2 to 1 margin. And although I appreciate Mrs. Barnes' invitation to Anchorage, I would prefer frankly to remain in Homer. I did live in Anchorage for a couple years and I have, we have, a lot of friends up there, however we are pretty deeply rooted in Homer at the present time. Two weeks after the election I was asked to transfer to Anchorage because of the peremptions. I have been assured that there is no other reasons for my transfer, only the peremptions. None of my sentences have ever been reversed as excessive. Now there are checks and balances that are far more appropriate than peremptions without cause and they are numerous. If a judge is doing something improper turn them over to the Judicial Qualifications Commission, or challenge the judge for cause, or test the judge in the retention elections, or appeal the judge's decision, or ask the judge to voluntarily disqualify himself. The message is going out loud and clear to the judges in Alaska, to the attorneys and to the public that inspite of the vote of thousands that vote means nothing, and a handful of attorneys can accomplish the transfer

of a judge, and threaten other judges through peremptions for which they do not even have to give a reason. All the attorneys have talked about before you are the rights of their clients, and these are important rights, no one would say that they are not. But what about the rights of the victims? What about the rights of society? The Constitution clearly requires a judge to sentence to protect society and reformation. No where in the Constitution, in the statutes or in the case law is there any indication that a judge is to sentence in order to avoid peremptions. And yet the Chief Justice of the Alaska Supreme Court has stated publicly that this is happening, and any judge who will level with you will tell you the same. The tail is wagging the dog at the present time as the attorneys are in effect controlling sentencing, and are now even controlling the transfer of judges. Thank you.

MARY/MATSU - 3/1 - 2:25 P.M.



TO: ALL LEGISLATORS

FR: LEONARD MOFFITT
P O BOX 748
PALMER 99645

PREEMPTION IS "TOOTED" AS A PROCEDURE TO PROTECT LAYMEN FROM PREJUDICIAL JUDGES HOWEVER, THAT PURPOSE SEEMS TO HAVE TAKEN SECOND PLACE AS ATTORNEYS MAY USE IT TO OBTAIN FAVORABLE JJUDGES FOR THEMSELVES. THE PAST RECORD OF RACIAL SENTENCING WOULD INDICATE THE PREEMPTION WAS AND IS INEFFECTIVE. LEGISLATIVE DETERMINATION IS WHAT CONTITUTES JUDICIAL CONFLICTS OF INTEREST AND BIAS PLUS REQUIRING JUDICIAL DISCLOSURE ARE NECESSARY JUDICIAL IMPROVEMENTS. MEANINGFUL JUDICIAL IMPROVEMENTS CANNOT BE OBTAINED UNTIL THE OFFICERS OF THE COURT ARE NOT ALLOWED TO VOTE ON CONFLICT OF INTEREST ISSUES.

EOM

ALASKA STATE LEGISLATURE

JR Rep Bussell

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708



CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
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RURAL EDUCATION ATTENDANCE AREAS

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

Representative Mike Davis
House District 19

MEMORANDUM

To: Members of the House Judiciary and State Affairs Committees
From: Rep. Mike Davis *Mike*
Date: March 21, 1983
Re: House Bill 79



Enclosed is a copy of a letter written in regard to House Bill 79, which would repeal the peremptory disqualification of judges. Mr. Parrish presents some insightful arguments which you may wish to consider when evaluating this bill.

O. NELSON PARRISH
JAMES A. PARRISH
LANCE C. PARRISH
ROBERT A. PARRISH
OF COUNSEL

PARRISH LAW OFFICE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
536 FOURTH AVENUE
FAIRBANKS, ALASKA 99701

TELEPHONE
(907) 456-4070

March 10, 1983

Representative Mike Davis
Capitol Office Building
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

I am writing regarding House Bill 79 which has apparently been introduced in the First Session of the 13th Legislature. This bill provides that the current Alaska Statute 22.20.022 providing for peremptory disqualification of judges be repealed. I wish to express my most sincere opinion that the passage of this bill would constitute a giant leap backward in the struggle for a fair and impartial judiciary in Alaska.

I take a particular interest in this bill because my father, Robert A. Parrish, strongly supported it when it was originally passed. I have paid special attention to the effect which it has had upon the judiciary and justice in individual cases. I have consulted with numerous other lawyers whose opinions I respect. Among those, the near unanimous consensus is that the peremptory disqualification procedure has been of great benefit to the state and should not be abandoned.

The peremptory disqualification procedure operates on two independent levels. Each is basic to fair adjudication of both civil and criminal controversies in this state.

On the first level, the disqualification procedure helps insure that a party or his counsel will not be required to participate in litigation before a judge who is consciously or unconsciously biased against him. Despite its rapid growth and large size, Alaska is a small state in terms of its citizens inter-relationships and their relationship with the judiciary. Lawyers especially have the occasion to go before the same judge time and time again during the course of the average year. Trial judges wield substantial power well beyond that which can be controlled by appellate review. The potential is always present that a judge will for non-judicial reasons act in a biased manner against a given attorney or party. The availability of a peremptory challenge effectively precludes a judge from at least repeatedly acting in a biased manner against a lawyer or party.

Representative Davis
March 10, 1983
Page 2

Additionally, despite the high quality of the Alaskan judiciary, lawyers are often correct in the belief that a certain judge may not be properly suited to the trial of a certain type of case. Again, the peremptory challenge procedure helps insure that such a lawyer or his client will not be bound to accept a given judge to try any given type of case.

At the second level, the peremptory challenge procedure promotes and assures that the judiciary will in general operate in a completely unbiased manner and will strive to provide justice uniformly.

It is easy to say at this stage of the judiciary's development that we do not need a peremptory challenge law because there is no evidence that any judge has been acting in a biased manner toward any particular attorneys or any particular type of cases. But, this has not always been the case. There have in the past been strong inter-personal conflicts between lawyers and judges which have resulted in biased decisions. Likewise, before the peremptory challenge law there was much less uniformity in judicial application of the law. It is my strong belief that the peremptory challenge law has contributed substantially to the improved judicial situation in this state.

The exercise of a peremptory challenge in any given case is of little significance to a judge. However, if a pattern develops whereby a certain attorney is repeatedly challenging the same judge, it becomes apparent to the bar in general that that attorney does not believe he can get a fair trial in front of that judge. No judge wishes to be subject to such public opinion and therefore each strives to avoid bias in his attitude towards attorneys and/or parties and their cases. This office has not had occasion to peremptorily challenge a judge for many years. Nevertheless, we consider the right to a peremptory challenge a fundamental guarantee of the high quality and unbiased judiciary that we have.

Likewise, if any judge develops a pattern of bias in a given type of case, that pattern will soon become evident through the use of peremptory challenges. Again, since such a pattern is indicative of bias, no judge would want it to continue. Therefore, he will be spurred to closely evaluate his rulings in light of those of other judges and conform to them. In this way, the judiciary acts in a more uniform manner. Uniform application of laws is desirable. Aside from equality of treatment, it speeds the revision process if the people or the lawmakers disagree with the manner of application.

Representative Davis
March 10, 1983
Page 3

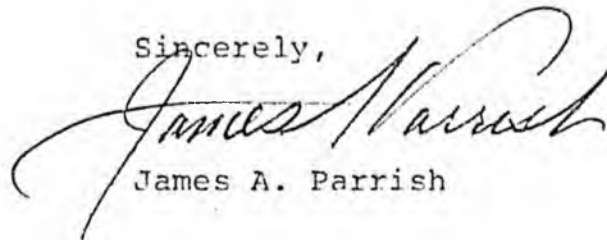
Perhaps the most important attribute of the peremptory challenge procedure is that it allows attorneys to represent their clients to the fullest extent without fear of subsequent judicial reprisal in other cases. In the absence of a peremptory challenge rule, judges can develop the attitude that they are always right and that any attorney who challenges their judgment by openly disagreeing with it or appealing it is wrong. In the absence of a peremptory challenge, a challenge to the authority of such a judge will be met with conscious or unconscious retaliatory measures in a subsequent case.

I am pleased to say that in Fairbanks, at least, there is no evidence of such attitudes. However, as they did exist before the peremptory challenge law and do exist in other states without such a law, I am constrained to believe that there is a cause and effect relationship.

I have not had any experience with political controversies in the courts. However, I would assume that the risk of a biased judge is as great there as it is in other types of cases. As a lawmaker, I would think that you would be especially attuned to the importance that an unbiased judge makes in a legal controversy. I am sure you can see as well as I that there is always the potential for the selection of a judge who simply should not be chosen to hear a given case. I also hope you can understand that judges, as human beings, are sensitive to their reputation as to fairness. Since the peremptory challenge rule may be the singlemost important means by which judicial reputations can be developed and communicated, their continued existence is critical.

I understand that there are concerns of expediency which would militate in favor of repealing the peremptory challenge rule. I, for one, favor taking measures which increase the efficiency and reduce the cost of the legal system. Nevertheless, the importance of the peremptory challenge procedure in terms of judicial quality and fairness offsets by far its cost in terms of efficiency and expense. Therefore, I hope that you will oppose passage of House Bill 79.

Sincerely,



James A. Parrish

JAP:mgs

PARRISH LAW OFFICE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

536 FOURTH AVENUE

FAIRBANKS, ALASKA 99701

O. NELSON PARRISH

JAMES A. PARRISH

LANCE C. PARRISH

ROBERT A. PARRISH

OF COUNSEL

TELEPHONE
(907) 456-4070

March 10, 1983



Representative Charlie Bussell
Capitol Office Building
Pouch V
Juneau, Alaska 99811

Dear Representative Bussell:

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Representative Bussell
March 10, 1983
Page 2

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Representative Bussell

March 10, 1983

Page 3

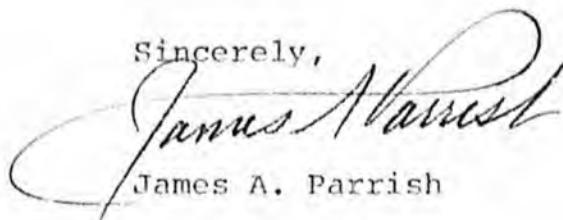
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Sincerely,

A handwritten signature in cursive script that reads "James A. Parrish". The signature is written in dark ink and is positioned above the printed name.

James A. Parrish

JAP:mgs

Judiciary
Referral

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April 8, 1983



Representative Charles Bussell
Alaska House of Representatives
Pouch V, Mail Stop 3100
Juneau, AK 99811

Dear Representative Bussell:

I had hoped to attend the telephone conference with you some weeks ago concerning the deliberations by the House Judiciary Committee on whether to continue to permit the preemption of trial judges. A conflicting court appearance made it impossible for me to attend. As a result I am writing to you to express the reasons I think the right to preempt a judge should be preserved.

While preemption of judges has been a fairly longstanding practice, the situation involving Judge Hornaday in Homer has, for the first time, put the propriety of that practice in focus. I understand that Judge Hornaday is preempted in approximately 80% of the drunken driven cases which are on his calendar on the basis of his publically announced policy of automatically imposing a substantially longer sentence than the mandatory three-day provision now applicable. I do not know Judge Hornaday. I harbor no ill will toward him. I think that he is both sincere and mistaken and that his position demonstrates the need for the right to preempt any given judge if the circumstances warrant it.

People are free only to the extent they are not vulnerable to the arbitrary exercise of power. To protect freedom and to prevent disparate treatment of persons by those with power, the rule of law was established as a basic tenet of our constitutional scheme. That means nothing more nor less than a guarantee that objective standards will be established which apply to all persons whose conduct comes within the ambit of those standards. It eliminates persons being held

Representative Charles Bussell

April 8, 1983

Page -2-

to a standard of which they are not aware or which is applied to some and not to others. It offends any reasonable person's sense of fairness to be treated differently than another for the same act or omission under similar circumstances. Even a child understands this basic notion of fair play.

The means by which standards are set for the conduct of Alaskans is through legislation by their elected representatives. By that means everybody participates in the process of deciding what standards will govern them. Once those standards are established, they are expected of everyone. As a result, I should not be punished for something from which you are exempt or anyone else might be exempt as a matter of some subjective or unilateral action by someone in authority.

The havoc wrought by drunken drivers in this state is a disgrace. However, that does not justify me imposing my personal standards on others. Nor does it justify a judge imposing his personal standards on others. It is the responsibility of the elective representatives of the people of this state to establish the standards by which citizens must conduct themselves. The state legislature has decided that three days is the appropriate sentence for the first drunk driving conviction under most circumstances, with the discretion to impose heavier sentences if egregious circumstances exist. If a judge decides that he will automatically impose substantially longer sentences than those established by the legislature, he is imposing his personal standards on those persons who come before him. To the extent a judge considers his subjective judgment to be superior to that mandated by the state legislature, he pre-emptes the legislative process.

Judges are sworn to uphold the law. They should therefore apply legal standards. Indulging personal standards is unfair because it puts average citizens in a position of having to guess what the personal preferences of each judge might be when conducting themselves during their daily lives. Citizens of this state are entitled to know what the consequences of their acts are by referring to the laws of this state.

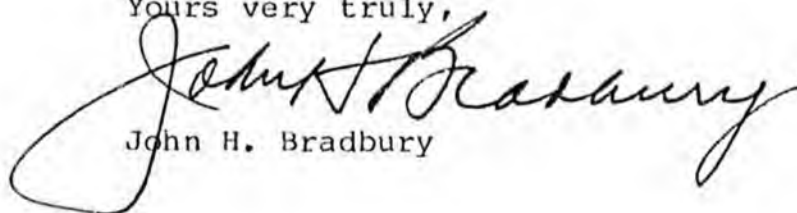
It is a very basic principle that citizens should be ruled by law, not men. A judicial system will be respected

Representative Charles Bussell
April 8, 1983
Page -3-

only to the extent it not only is fair but is also preceived to be fair. There is no discernible reason for a person who comes before a judge to be treated differently than a person who comes before any other judge in this state for the same charge, particularly when the legislature has provided a guide which all judges are expected to follow absent special circumstances.

I personally would prefer better laws than those now on the books concerning drunk driving. To that extent I share Judge Hornaday's views. If you agree with Judge Hornaday's views on drunken driving, I urge you to support remedial legislation that applies to all drunken drivers in this state. I urge you not to adopt the principle that allows the people of this state to be subjected to the personal standards of every judge in this state. The rule of law is too important to be sacrificed for the expediency and the emotional appeal of the drunk driving issue. Only if persons who come before the judicial system have the right to exclude judges who are known to have personal bias in a given area can the rule of law be promoted with the sort of assurance that the people of this state deserve and are entitled to expect.

Yours very truly,

A handwritten signature in cursive script, reading "John H. Bradbury". The signature is written in dark ink and is positioned above the printed name.

John H. Bradbury

JHB/vmd

Schaible, Staley, DeLisio & Cook, Inc.

A Professional Legal Corporation

JUDICIARY
Referral
in Senate
State Affairs

March 29, 1983

Fairbanks Office

Grace Berg Schaible
Howard Staley
Dennis E. Cook
Barbara L. Schuhmann
Robert B. Groseclose
Charles D. Silvey, Jr.
Gerard R. LaParle
Gregory W. Lessmeier

Representative Charlie Bussell
Pouch V
Juneau, Alaska 99811

Re: House Bill 79,
Repealing Peremptory Disqualification of Judges

Anchorage Office

Stephen S. DeLisio
Alan Sherry
Joseph M. Moran
Michael C. Geraghty
Patricia L. Zobel
Walter J. Sezudlo
Lynn L. Cassel

Dear Representative Bussell:

House Bill 79 would eliminate the peremptory challenge of judges. It would thus only allow challenges of judges for cause under A.S. 22.20.020. If only challenges for cause are allowed, then challenges for cause will increase. Under the present system, I do not hesitate to appear before judges that I have challenged peremptorily. There are many reasons for changing a judge.

Of Counsel:

William V. Boggess

However, if you challenge a judge for cause, it is a very serious accusation. You must state, by affidavit, that you feel the judge cannot be fair and impartial. In a way, you are stating the judge has not followed the judicial canons of ethics. S/he has failed to recuse himself or herself when that is what should have happened. If I ever had to challenge a judge for cause, I would never want to appear before that judge again. I would continue to challenge that judge for cause, particularly if that is what my client wanted or insisted upon.

Using this method of disqualification will cause an increase in legal costs and expenses for clients, and will increase the work of judges. Attorneys will have to file motions to disqualify for cause, accompanied by affidavits and memoranda. There will be hearings on the motion. If the motion is first denied, then it is assigned to another judge for hearing under A.S. 22.20.020(c). If the motion is still denied, the question can go up on appeal, or at least a petition for review can be filed. The peremptory challenge system is so much more efficient, that it should be retained.

If there are problems because there are single judge districts, those are problems should be solved by ingenious

300 Barnette Street
(907) 452-1855

Post Office Box 810
Cable Address - MERFAIR

Fairbanks, Alaska 99707
Telex No. 35-416

March 29, 1983

Page -2-

use of telephone hearings, and, if necessary, assignment of a judge from a different district to handle motions and the trial. Eliminating the peremptory challenge of judges will not solve the problem.

Alaska is still a small enough state that many people know judges that they come before. If they are not comfortable, for whatever reason, they should have the right to one peremptory challenge. The times when this has become a problem for the court system are times when a judge has announced publically the sentence s/he intends to give in all drunk driving cases, for example, or cases where lawyers and litigants have consistently felt that the judge's demeanor or decisions were unacceptable.

The peremptory system works very efficiently. If a judge is challenged, another judge is very simply assigned to the case. One piece of paper needs to be filed by the attorney, and another is filed by the courts. (See Civil Rule 42.)

The peremptory challenge of judges should be retained. I urge you to defeat House Bill 79.

Sincerely,

SCHAIBLE, STALEY, DeLISIO & COOK, Inc.

By: Barbara L. Schuhmann
Barbara L. Schuhmann

BLS:skb

H

B

8

O

Alaska State Legislature

IN SESSION:
POUCH V
UNEAU ALASKA 99811
(907) 465-4949



BOX 142
EAGLE RIVER, ALASKA
99577
(907) 694-4949

Representative Randy Phillips

HOUSE DISTRICT 8

MEMORANDUM

TO: REPRESENTATIVE CHARLIE BUSSELL
CHAIRMAN, HOUSE JUDICIARY COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS *R.E.P.*

DATE: JANUARY 12, 1984

RE: HOUSE BILL 80

Craig Lovell of your staff advised me today that House Bill 80 will be before the House Judiciary Committee on Monday, January 16, at 1:30 p.m. for hearing. I have requested that the Division of Elections update their 1983 Fiscal Note on this bill. I have requested that this updated fiscal note be ready for your committee's hearing.

As you know, the Anchorage area experienced a power outage on the day of the 1982 general election. While power was restored to some of the Anchorage bowl by about 6:00 p.m. that day, power was not restored to outlying areas (including the Chugiak-Eagle River area) until 12:30 a.m. the next morning. Additionally, the normally 45-minute to an hour trip from the downtown Anchorage area to places of residence in Chugiak-Eagle River took approximately two hours or more because of traffic signal light malfunction and traffic tieups. After the election, many persons in my district expressed to me that they assumed polling places would be closed because of the power failure or that they left town at their normal time only to arrive home too late to vote because of the traffic problems.

According to an article in the November 3, 1982, Anchorage Times, "Stray Bullet Stalls Traffic, Voters, Power," page C-1, Attorney General Wilson Condon stated that after review of the situation and the law, he determined that there was "Absolutely no authority to extend the polling time."

The proposed legislation presently before your committee in the form of House Bill 80 is an attempt to rectify this matter so that if a natural disaster or something on the order of the Anchorage situation occurs in later years, there will be some authority for some action if any action is deemed necessary.

Representative Charlie Bussell
January 12, 1984
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For your information, and the information of your committee members, I have attached the following items to this memorandum:

1. November 13, 1982 memorandum from Assistant Attorney General Kennedy and Investigator Savage to Attorney General Condon.

2. "Polling Hours for the General Election" from The Book of the States 1982-83.

Attachments

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 12, 1984

SUBJECT: Extension of time for voting: HB 80

TO: Representative Charles Bussell
Chairman, House Judiciary Committee

FROM: Richard A. Bradley B
Legislative Counsel

You have requested a sectional analysis of the above described bill. As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please address a specific request to this office.

I have assumed that the justification for the bill is the power outage that occurred during an election in Anchorage in 1980. It was widely believed at that time that some percentage of the voting population was deterred from voting at that election because of the outage.

Section 1 of the bill establishes new subsections to AS 15.15.080, a provision dealing with the times for the opening and closing of the polls.

The existing provisions of that section now provide:

Sec. 15.15.080. TIME FOR OPENING AND CLOSING POLLS.
On the day of any election, each election board shall open the polls for voting at eight o'clock in the morning, shall close the polls for voting at eight o'clock in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at 7:30 in the morning of an election day. The hour shall be

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determined by the standard time, or daylight saving time, that is applicable to the polling place.

The material added by this bill would permit the director of elections, with the concurrence of the lieutenant governor, to "extend the hours for voting on election day" on a determination by the director that a "natural disaster or exigency" has prevented a "substantial number of qualified voters from voting."

The director may draw that conclusion and offer that determination only if the director is able to show by statistics or other means "an actual decrease in the number of qualified voters voting" over previous elections and no other factors such as redistricting can account for the change.

In my opinion, even if there is a decrease in the number of voters voting, the provisions of Sec. 15.15.080(b) would not be triggered unless the "natural disaster or other exigency" was simultaneously occurring.

The director may adopt regulations to implement the provisions of Sec. 80(b).

If I may be of further assistance, please advise.

RAB:ojb
J2/019

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU ALASKA 99811
(907) 465-4949



BOX 142
EAGLE RIVER, ALASKA
99577
(907) 694-4949

Representative Randy Phillips
HOUSE DISTRICT 8

MEMORANDUM

TO: REPRESENTATIVE CHARLIE BUSSELL
CHAIRMAN, HOUSE JUDICIARY COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS *R.E.P.*

DATE: JANUARY 12, 1984

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