

ALASKA LEGISLATURE COMMITTEES 1983-1984

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official inquiry continued. Amnesty International noted that in their report the Control *Yuan* members also concluded that "the procedures of interrogation by the Taiwan Garrison Command should be studied and improved". This was publicly recognized in early August 1981 by the government's spokesperson.

Amnesty International adopted as prisoners of conscience Chang Chun-nan and Liu Feng-sung, both sentenced to three-and-a-half years' imprisonment in separate trials in March and April 1981 (see *Amnesty International Report 1981*). They were accused of spreading seditious ideas during their election campaigns for the Legislative *Yuan* and the National Assembly in December 1980 and charged under the Public Officials' Election and Recall Law (May 1980). Both were active members of the opposition. There was no evidence that they had used or advocated violence.

Amnesty International continued to appeal for the release of 20 people arrested in the early 1950s for alleged pro-communist activities. Among them were Wu Yueh-ming and four co-defendants serving life terms in Green Island Military Prison. In August 1981 Amnesty International urged the authorities to give Wu Yueh-ming proper medical care for his impaired vision. Subsequent reports indicated that he was receiving treatment.

Amnesty International launched special appeals for the release of two journalists, Li Ching-sun, detained since 1975, and Li Ching-jung, arrested in December 1979, both adopted by Amnesty International as prisoners of conscience (see *Amnesty International Report 1981*).

On 18 February 1981 Amnesty International wrote to the Minister for Legal Affairs about prison conditions for the prisoners tried on criminal charges related to the Kaohsiung incident (see *Amnesty International Report 1981*). It had received reports that some were held in solitary confinement, not allowed daily outdoor exercise, and that their reading material was very restricted. Amnesty International also asked for a thorough inquiry into complaints of ill-treatment under interrogation by the military authorities. Most of these complaints had been made in court.

In its memorandum of 27 February 1981 Amnesty International expressed concern at the number of death sentences imposed and carried out every year. Between July 1979 and June 1980, 57 death sentences had reportedly been passed. It recommended the suspension of all executions and the abolition of this punishment. The government replied that death sentences were imposed with extreme care and that they were automatically referred to a higher court. It also said that in practice few people were executed: seven in 1978, two in 1979 and five in 1980. On 3 July 1981 Amnesty International wrote to the

government outlining its work against the death penalty and international moves for its abolition. Amnesty International learned of 15 death sentences imposed in 1981 and seven executions.



## Thailand

Amnesty International was concerned by the use of detention without trial for political offences and by the imposition of the death penalty. However, it had no adopted prisoners of conscience in Thailand during 1981.

In April 1981 Amnesty International wrote to Prime Minister General Prem Tinsulanond about 200 people who had been sentenced by administrative procedure to terms of imprisonment without trial under martial law provisions between 1976 and 1978. Twenty-eight had received life sentences and a further 89 were sentenced to 10 or more years' imprisonment. The 200 included some prisoners whose cases were political in character and others accused of purely criminal offences. In its letter Amnesty International pointed out that the continued detention of these prisoners contravened the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It urged the authorities to release the detainees or bring them to an early trial.

In June the Minister of Justice, Marut Bunnag, informed Amnesty International that the government was seriously seeking an effective solution to the problem of the 200 prisoners. A working committee formed by the government to look into the cases recommended in November that they should be pardoned by government decree.

Amnesty International was also concerned about the detention without trial of more than 50 Chinese and Vietnamese awaiting deportation on charges of illegal immigration. Some had been held in prison for more than 20 years. A group of 186 such prisoners was freed in December 1980.

Other prisoners were detained without trial under the provisions of the Anti-Communist Activities Act of 1979 (ACAA) which allows people accused of communist activities to be detained for up to 480 days. The number of people held under this act was not divulged by the authorities. Most arrests were believed to have occurred in northeast or southern Thailand.

TELECOPY COVER SHEET

TO: David Dye, Sen V. Fischer's Office PHONE: 465-4954

FROM: PAIRBARKS LTD / Dan Callahan PHONE: 452-4448  
Amnesty Internat - 456-1136

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# AMNESTY INTERNATIONAL REPORT 1982



Amnesty International Publications  
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Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (but not the Optional Protocol to the former as Amnesty International had recommended). Concerned about the human rights violations reported to it during 1981, Amnesty International proposed to the government that a mission visit the country.



### Taiwan

Amnesty International appealed for the release or retrial of more than 120 prisoners of conscience and possible prisoners of conscience, 20 of whom had been held for more than 30 years.

On 27 February 1981 Amnesty International submitted a memorandum to the government. It contained recommendations arising from its mission to Taiwan in February 1980 and from its observation of the trial in March 1980 of eight defendants charged with sedition after a demonstration in Kaohsiung on 10 December 1979. Amnesty International called for the release of its adopted prisoners of conscience and for the country's legislation to be amended to bring it in line with international standards on interrogation, trial and detention procedures. In particular Amnesty International recommended: the abolition of provisions under which people can be imprisoned for the non-violent exercise of their right to freedom of expression and association; a precise legal definition of the offence of sedition; an end to incommunicado detention and other conditions that facilitate ill-treatment in custody; and the introduction of procedures to investigate complaints of ill-treatment and compensate victims.

On 5 August 1981 Amnesty International published the text of its memorandum together with a reply from the government and Amnesty International's response. The government rejected the Amnesty International recommendations as interference in its internal affairs. It said that the violence at the Kaohsiung demonstration was planned in advance by eight of the prisoners and that their allegations of ill-treatment had been investigated by the court and found to be groundless. It stated that the purpose of the legal provision that pre-trial investigation "shall not be public" was "to protect the human rights of the suspects", "safeguard the person's reputation and guard

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against false accusation". In its response Amnesty International reaffirmed that it had not been proved that the defendants convicted of sedition had planned the violence that erupted during the demonstration. Regarding prisoners' complaints of ill-treatment, Amnesty International stressed that the isolation of suspects during interrogation facilitated ill-treatment. It also made it difficult for defendants to prove their complaints to the courts, and for the government to disprove them. In its memorandum Amnesty International expressed disquiet at reports that one of the prisoners who had spoken to its delegates visiting Green Island military prison in February 1980 (see *Amnesty International Report 1980*) had been punished as a result. Amnesty International noted that the government denied this and reiterated its recommendation that an independent body be set up to deal with prisoners' complaints. Amnesty International repeated its belief that the definition of the offence of sedition was imprecise. It was concerned that charges of sedition had been used to imprison people critical of the government whom Amnesty International regarded as prisoners of conscience.

During 1981 the government did attend to some of the matters on which Amnesty International had made recommendations. The Minister for Legal Affairs, Li Yuan-tze, was reported to have said in March 1981 to the Legislative Yuan (Assembly) that the right of a suspect to have access to counsel during investigation would be given serious consideration during the forthcoming revision of the code of criminal procedure. On 1 July 1981 the government promulgated a State Compensation Law. Under this a plaintiff may claim compensation for damages caused by government employees in the course of their duties. On 7 October 1981 Amnesty International wrote to the Minister for Legal Affairs welcoming this measure.

Dr Chen Wen-cheng, an assistant professor at Carnegie-Mellon University in the USA, was found dead in Taipei on 3 July 1981, the day after he had been interrogated by the Taiwan Garrison Command about his political activities in the USA. The authorities said that he had been escorted home the night before. On 8 July 1981 Amnesty International cabled the government expressing concern about Dr Chen Wen-cheng's death and asking for information about the circumstances. The government sent Amnesty International copies of the reports by the prosecutor's office and by two members of the Control Yuan (the elected assembly which has the power to impeach and censure public functionaries). The first concluded that the death was the result of suicide or accident; the second that it was probably accidental. A US expert in forensic medicine who examined the body at the request of Chen Wen-cheng's employer found no evidence of self-harm. [The report] concluded that he had been murdered. The

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official inquiry continued. Amnesty International noted that in their report the Control Yuan members also concluded that "the procedure of interrogation by the Taiwan Garrison Command should be studied and improved". This was publicly recognized in early August 1981 by the government's spokesperson.

Amnesty International adopted as prisoners of conscience Chan Chun-nan and Liu Feng-sung, both sentenced to three-and-a-half years' imprisonment in separate trials in March and April 1981 (see *Amnesty International Report 1981*). They were accused of spreading seditious ideas during their election campaigns for the Legislative Yuan and the National Assembly in December 1980 and charged under the Public Officials' Election and Recall Law (May 1980). Both were active members of the opposition. There was no evidence that they had used or advocated violence.

Amnesty International continued to appeal for the release of 21 people arrested in the early 1950s for alleged pro-communist activities. Among them were Wu Yueh-ming and four co-defendants serving life terms in Green Island Military Prison. In August 1981, Amnesty International urged the authorities to give Wu Yueh-min proper medical care for his impaired vision. Subsequent reports indicated that he was receiving treatment.

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In its memorandum of 27 February 1981 Amnesty International expressed concern at the number of death sentences imposed and carried out every year. Between July 1979 and June 1980, 57 death sentences had reportedly been passed. It recommended the suspension of all executions and the abolition of this punishment. The government replied that death sentences were imposed with extreme care and that they were automatically referred to a higher court. It also said that in practice few people were executed: seven in 1978, two in 1979 and five in 1980. On 3 July 1981 Amnesty International wrote to the

government outlining its work against the death penalty and international moves for its abolition. Amnesty International learned of 13 death sentences imposed in 1981 and seven executions.



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In April 1981 Amnesty International wrote to Prime Minister General Prem Tinsulanond about 200 people who had been sentenced by administrative procedure to terms of imprisonment without trial under martial law provisions between 1976 and 1978. Twenty-eight had received life sentences and a further 89 were sentenced to 10 or more years' imprisonment. The 200 included some prisoners whose cases were political in character and others accused of purely criminal offences. In its letter Amnesty International pointed out that the continued detention of these prisoners contravened the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It urged the authorities to release the detainees or bring them to an early trial.

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# AMNESTY INTERNATIONAL REPORT 1981

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connection with criminal charges.

On 27 February 1981 Amnesty International wrote again to the government asking for the report of the Parliamentary Select Committee. It drew the government's attention to United Nations General Assembly Resolution 33/173 of 20 December 1978 requesting governments to undertake speedy and impartial investigations into all cases of "disappeared" people. Amnesty International has not received a reply and knows of no published information about the progress made in the Parliamentary Select Committee's investigations or about its findings. The fate of the three "disappeared" Tamils has not yet been clarified.

Amnesty International also asked the government for details of any proceedings against individual police officers implicated in torture. Amnesty International has not received a reply from the government nor any indication of proceedings being instituted against individual officials.

Although death sentences are known to have been passed since the United National Party (UNP) government assumed office in 1977, Amnesty International understands that no executions have taken place since that date.



## Taiwan

Amnesty International was concerned about the arrest and detention of prisoners of conscience. It continued to investigate a number of cases where it believed that political prisoners had been convicted of activities involving violence

after unfair trials, and possibly for the non-violent expression of their political views. It remained concerned at the conviction of political prisoners on the basis of confessions made during incommunicado detention and at the number of death sentences for criminal offences.

The majority of political prisoners of concern to Amnesty International were convicted of sedition under the Statute for the Punishment of Sedition (1949). This statute is part of the provisions of the state of siege declared in Taiwan in 1949; it specifies a number of offences against the internal and external security of the state and gives jurisdiction to military courts. Amnesty International was also concerned about the use of the Public Officials Election and Recall

Law of May 1980, which prescribes a term of imprisonment for spreading seditious ideas in the course of an electoral campaign.

Among the prisoners of conscience for whose release Amnesty International appealed were people arrested in the early 1950s for alleged pro-communist activities, who were arrested in a period of emergency; many were given summary trials. At least 20 were known to be still in detention.

Amnesty International learned that Tseng Cheng-chin, a watch-dealer from Taipei, detained since 1976 and an adopted prisoner of conscience, was released in May 1980 on grounds of ill-health (see *Amnesty International Report 1978 and 1979*). A special appeal was made in January 1981 for the release of Li Ching-sun, a former newspaper editor, who received a life sentence for sedition in 1971 which was commuted to 15 years in 1975. Amnesty International believed that he was detained for having written articles critical of the government.

Amnesty International continued to urge the immediate and unconditional release of Li Ching-jung, the editor of the magazine *Fubao Chihsheng*. He was arrested on 26 December 1979 and held incommunicado for almost four months. He was tried by a military court and sentenced on 15 May 1980 to five years' imprisonment for writing articles advocating the peaceful reunification of Taiwan with the People's Republic of China and spreading propaganda beneficial to the communists.

Amnesty International adopted as prisoners of conscience eight members of the staff of the magazine *Formosa* whose trial by military court on charges of sedition in March 1980 had been observed by an Amnesty International delegate (see *Amnesty International Report 1980*). Huang Hsin-chieh, Shih Ming-teh, Yao Chia-wen, Chang Chun-hung, Lin Yi-hsiung, Lin Hung-hsuan, Lu Hsiu-lien and Chen Chu, all executives or editors of *Formosa* and involved in opposition to the government, were arrested in December 1979 and January 1980. They were convicted in April 1980 of attempting to overthrow the government by organizing a riot in Kaohsiung on 10 December 1979 (known as the "Kaohsiung incident"). The Taiwan Garrison Command announced on 30 May 1980 that their sentences, ranging from 12 years' to life imprisonment, had been confirmed by a military appeal court. Amnesty International believed that these prisoners were detained for their political beliefs and activities and that there was no evidence that they had used or advocated violence; it was concerned that confessions, which the defendants claimed in court had been obtained by illegal means including violence, threats, inducements and fraud, were admitted as evidence without a thorough investigation by the court. Amnesty International was concerned also

that some sessions of the pre-trial hearings were held *in camera*: during these sessions the defendants reportedly stated that their confessions had been voluntary. The court later used this to dismiss the defendants' complaints about how their confessions had been obtained.

On 27 February 1981 Amnesty International submitted a memorandum to the government. It contained recommendations arising from the missions to Taiwan in February and March 1980, and from later developments in the cases of those arrested after the Kaohsiung incident. At the end of April 1981 the government informed Amnesty International that it would send its comments on the memorandum in the near future. These documents were to be published later in the year.

Thirty-three prisoners were tried on criminal charges in connection with the Kaohsiung incident. They had been arrested in late 1979 and early 1980 and interrogated by the Taiwan Garrison Command on suspicion of sedition. Their cases were transferred to a civilian court in late February 1980. On 31 March 1980 they were charged with either "inciting a group of people to commit or threaten violence" or "being accomplices in acts of violence". The full court hearings took place from 21 to 26 May 1980 and the verdict was announced on 2 June 1980. Three defendants were acquitted and one was given a suspended sentence. The sentences, ranging from 10 months' to six years eight months' imprisonment, were in many cases reduced on appeal. Amnesty International has adopted most of those still detained as prisoners of conscience because it believed they were detained either on account of their political activities and association with *Formosa* magazine or in violation of their right of peaceful assembly. Writers, local politicians and political activists received the longest prison sentences. Amnesty International believed that the charges of violence against them had not been substantiated; in most cases the only evidence for conviction was confessions and incriminating testimonies which the defendants claimed in court had been made under duress. On 18 February 1981 Amnesty International requested the Minister for Legal Affairs, Li Yuan-tzu, to order an inquiry into reports that this group of prisoners was held in solitary confinement, denied the right to work, not allowed outdoor exercise and that their reading material was extremely restricted. It also expressed its concern that their mental and physical health appeared to have been greatly impaired by their detention; it asked for a thorough inquiry into the complaints made by most of the prisoners about their treatment while detained for investigation.

Amnesty International adopted as prisoners of conscience six people charged with having helped Shih Ming-teh, the general

manager of *Formosa* magazine, to escape arrest or with not having reported him to the police. They were tried by a military court on 16 May 1980 and sentenced on 5 June 1980 to terms of imprisonment ranging from two to seven years. Four co-defendants were given suspended sentences. Amnesty International believed they were detained for non-violent actions performed out of humanitarian concern and for conscientious reasons.

Yeh Tao-lei, a 30-year-old sociology graduate and a teacher at a junior college, was arrested by the Taiwan Garrison Command on 9 September 1980 on charges of sedition. She was reportedly held incommunicado for a two-month interrogation during which she confessed to the charges against her. On 17 November 1980 she was accused of having been recruited to work for the People's Republic of China while a student in the United States of America, and of having carried microfilms of communist books back to Taiwan. Yeh Tao-lei was tried on 6 January 1981 by a military court, found guilty and sentenced to 14 years' imprisonment. Amnesty International was concerned that the main evidence on which the verdict was based was her confession which may have been obtained under duress.

Amnesty International also investigated the case of Kao Huo-yuan, sentenced to 13 years' imprisonment on 18 December 1980 after a military court had found him guilty of participating in a seditious group advocating the independence of Taiwan while he was in the United States of America. Kao Huo-yuan was accused of having received instructions and money from this organization to carry out seditious activities on his return to Taiwan. Amnesty International was concerned that he was reportedly convicted on the basis of his confession. According to official but unconfirmed reports, other people were arrested at the same time on suspicion of advocating the independence of Taiwan. No details of their names or of the charges have been made public.

Amnesty International appealed for the release of Chang Chun-nan, a former member of the National Assembly and an active member of the opposition, who was arrested on 17 January 1981 and charged on 30 January with advocating the independence of Taiwan and calling on the people to overthrow the government, during the electoral campaign for the Legislative Yuan in December 1980. Amnesty International received information that he did not advocate the use of violence. Chang Chun-nan was sentenced by Taichung District Court on 3 March 1981 to three and a half years' imprisonment.

Amnesty International investigated the case of three other election candidates prosecuted for their speeches or for holding "unauthorized meetings" during the electoral campaign. Amnesty International

adoption groups worked on behalf of 134 political prisoners in Taiwan.

Amnesty International remained concerned about the number of death sentences imposed by civilian and military courts and about the number of executions carried out every year. To Amnesty International's knowledge 25 death sentences were passed for murder, armed robbery, kidnapping and embezzlement between September 1980 and April 1981 and eight executions were carried out during the same period. It expressed its concern to the authorities and urged the commutation of all death sentences.



## Thailand

Amnesty International's main concerns were political imprisonment, the prison conditions of political prisoners, and the death penalty.

The constitution of 1978 (chapter 3, section 27) guarantees the presumption of innocence, access

to courts or administrative bodies to seek redress, and the right to legal counsel in all cases before a court. However, the right to legal counsel may be denied during the pre-trial period which diminishes legal protection.

Furthermore, provisions of the Anti-Communist Activities Act of February 1979 allow people accused of communist activities to be detained for up to 210 days with the approval of the police Director-General, and for up to 480 days with the permission of a military or criminal court. The number of people held under this act was not available, but it appeared that arrests were few and concentrated in southern and northeastern Thailand.

More than 200 people were reportedly still held without trial since their arrests between 1976 and 1978 under previous governments. They had been sentenced administratively without trial under Martial Law Decrees 21 and 22. Twenty-eight of the prisoners were believed to have received life sentences and a further 89 were sentenced to 10 years' or more imprisonment.

In a letter to the Prime Minister of Thailand, General Prem Tinsulanond, in April 1981 Amnesty International pointed out that the continued detention of these individuals contravened the United Nations Declaration of Human Rights and the International Covenant on Civil and Political Rights. Amnesty International noted with regret

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S.F.

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Pizza

LAHL-9

Glenda Staube

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Alaska State Legislature

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SENATOR  
ROBERT H. ZIEGLER, SR.  
307 BAWDEN STREET  
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While in Juneau  
POUCH V  
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN  
SENATE RESOURCES COMMITTEE

MEMBER  
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE  
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL  
OF STATE GOVERNMENTS

May 20, 1983

Senator Vic Fischer,  
Chairman  
Senate State Affairs Committee  
Alaska State Legislature  
Juneau, Alaska

Dear Senator Fischer:

This version of the Taiwan resolution couldn't possibly offend anyone, I don't think.

Regards,

3 -

Robert H. Ziegler, Sr.

RHZ:lk

Attachment

cc: Senator Kerttula w/attach.  
Senator Paul Ficher w/attach.  
Representative Joe Hayes w/attach.  
Representative Mitch Abood w/attach.

IN THE SENATE

PROPOSED SPONSOR SUBSTITUTE FOR SJR 23  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the establishment of a  
sister state relationship with Taiwan.

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

WHEREAS the people of Taiwan have developed a prosperous and successful free economy while surmounting great difficulties; and

WHEREAS Alaskans share the same spirit and economic goals as the people of Taiwan; and

WHEREAS the people-to-people program initiated by President Eisenhower in 1956, was designed to bring the people of the world closer together in the interest of peace; and

WHEREAS the City of Fairbanks has had a sister city relationship with the City of Tainan, Taiwan since August 1982; and

WHEREAS the people of Taiwan have established themselves a great producers of products sold in the world market; and

WHEREAS Alaska is the source of many of the raw materials required for those products; and

WHEREAS a sister state relationship with strong economic ties in the mutual interest of Taiwan and Alaska;

BE IT RESOLVED by the Alaska State Legislature that an invitation be extended to the people of Taiwan through their Provincial Legislature to be a sister state with the State of Alaska, with strong social, educational, economic, and be it

FURTHER RESOLVED that the people of Alaska and Taiwan should work closely together to improve international goodwill and understanding.

COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Alaska State Legislature

Vic *(initials)*

SENATOR  
ROBERT H. ZIEGLER, SR.  
307 BAWDEN STREET  
KETCHIKAN, ALASKA 99901



MAY 17 1983

VICE CHAIRMAN  
SENATE RESOURCES COMMITTEE

MEMBER  
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE  
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL  
OF STATE GOVERNMENTS

While In Juneau  
POUCH V  
JUNEAU, ALASKA 99911

Senate

May 16, 1983

The Honorable Vic Fischer,  
Chairman - Senate State Affairs Committee  
Alaska State Legislature  
Juneau, Alaska

Dear Vic:

I have attached hereto for your consideration a proposed rewrite of the resolution pertaining to establishing a sister state relationship with Taiwan.

I gather you are not exactly nutty about the subject matter, but the proposed substitute has been greatly watered down and there are some of us in the Legislature who would like to see it passed even in its modified form.

Regards,

3-

Robert H. Ziegler, Sr.

RHZ:1k

Enclosure

Susan Clark 6-6952  
League of Women  
Votes P. 201/4 6-9438

Amnesty International

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(h) 345-4112

ACLU  
Charlie Parr

Don Ferguson  
(202) 632-7710  
State Department

Dz - pls  
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Congress Delep.  
+ nice response to  
Ziegler.

Robert Hsiao  
Y.C. Chen

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IN THE SENATE

PROPOSED SENATE SUBSTITUTE FOR SJR 23  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the establishment of a  
sister state relationship with Taiwan.

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

WHEREAS Taiwan is of great strategic importance in the defense of East Asia and the Pacific; and

WHEREAS Taiwan has developed a prosperous and successful free economy while surmounting great difficulties; and

WHEREAS Alaskans share the same spirit and economic goals as the Chinese people in Taiwan; and

WHEREAS the United States government has encouraged people-to-people contacts since 1956 when President Eisenhower began that program; and

WHEREAS The City of Fairbanks has had a sister city relationship with the City of Tainan, Taiwan since August 1982; and

WHEREAS the people of the province of Taiwan have established themselves as great producers of products sold in the world market and Alaska is the source of many of the raw materials required for those products; and

WHEREAS a sister state relationship with strong economic ties is in the mutual interest of Taiwan and Alaska;

BE IT RESOLVED by the Alaska State Legislature that an invitation be extended to the people of Taiwan through their Provincial Legislature to be a sister state with the State of Alaska, with strong social, educational, economic, and cultural exchange program;s and be it

FURTHER RESOLVED that the people of Alaska and Taiwan should work closely together to improve international goodwill and understanding.

COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

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FURTHER RESOLVED that the people of Alaska and Taiwan should work closely together to improve international goodwill and understanding.

COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

We contacted Stevens, Murkowski & Young.

Stevens contacted the State Department. They stressed that they have no control over a state wanting to establish a sister state relationship with Taiwan, but they wanted to extend a serious warning to us.

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Further, that the resolution emphasizes people to people contact, cultural exchange and general goodwill. The resolution should avoid any political references.

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David - 5/5  
This is  
from Abod's  
office!  
xx  
nan

HJR 42

Summary of U.S.State Dept. 1982 report to Senate & House Foreign Relations Committees on Human Rights Practices in Taiwan

Political history since 1949 - the political power and most positions of power in the government remain with the Nationalist Party, the Kuomintang, who were elected on mainland China before 1945. Native Taiwanese - about 85% of population - do not have significant power, and are structurally prevented from gaining it.

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These are the observations on human rights conditions as listed in the State Dept. report:

Political murders - murders of a mother and twin daughters of an opposition figure and of a U.S. born Taiwanese professor in 1980 and 1981 "are believed to have been politically motivated".

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Arrest and warrants - Arrest is without warrant in many cases. Individuals may be held up to seven months and possibly more at prosecutor's request. Recently, attorneys were allowed to be present for interrogation of their clients, but that may only mean sitting behind a soundproof window - watching, but not hearing. There is no protection against self-incrimination.

For many minor crimes police not only arrest, but also prosecute and punish. Police are now trying to get the power to put certain of those detained in military prisons for "educational punishment" for crimes against "social peace" - all without trial.

"Monitoring of telephone calls(is)widely believed to exist", and in a recent case there was evidence of monitoring of international calls.

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COPY

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TAIWAN

More than thirty years of dynamic economic development contrasts sharply with the pace of political development in Taiwan, where the ruling authorities have emphasized stability rather than change. Nonetheless, the authorities have created an array of democratic institutions from village to province level, with candidates inside and outside the dominant Nationalist Party. Actual power, however, remains in the hands of the small leadership group elected in mainland China before 1945, which came to Taiwan after World War II and controls the Nationalist Party (Kuomintang), the military, and the executive bureaucracy. A high degree of political control is exercised through the security apparatus, which operates under martial law provisions enacted in 1949 and which the authorities justify by the threat of military action or subversion from mainland China.

The enhancement of human rights is publicly endorsed by the authorities but remains incompletely realized in Taiwan. Although individuals may run for elective office, coordinated opposition activity is greatly restricted. The publication of opposition political views is closely controlled and the activities of outspoken oppositionists are monitored, both at home and, apparently, abroad. Native Taiwanese, descendants of Chinese who migrated from the mainland mostly in the eighteenth century and who now constitute 85 percent of the population, dominate the economy but are under-represented within the ruling elite. Recent evidence suggests that torture and other forms of physical intimidation are still occasionally used by police, but probably are not officially condoned.

Nineteen eighty-two saw the continuation of a slow trend toward improvement in the human rights situation in Taiwan. Publication and public expression of oppositionist sentiment have become gradually freer, although there are still strict limits to what is acceptable. The authorities continue to recruit qualified Taiwanese to fill important economic and political, military, and security posts, a process which will contribute to an increased share of political power by the Taiwanese. With the rise of a prosperous middle class, popular concern about human rights is increasing. Despite Taiwan's diplomatic isolation and concern about the island's future after the passing of the current President, Chiang Ching-kuo, the outlook for continued improvement in human rights appears favorable.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Killing

No killings for political reasons have been substantiated in Taiwan in 1982, or indeed in recent years. However, the murder in February 1980 of the mother and twin daughters of jailed oppositionist Lin Yi-hsiung and the suspected murder in July 1981 of a Taiwan-born US resident, Professor Chen Wen-cheng, are widely believed to have been politically motivated.

b. Disappearance

In recent years, there have been no credible reports of persons being abducted or secretly arrested by the security services. There are no known terrorist organizations operating on the island.

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382  
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d. Cruel, Inhuman, or Degrading Treatment or Punishment

Imprisonment is the usual form of punishment for both political and nonpolitical offenders. According to the authorities, nine executions were carried out in 1981, seven of convicted murderers, and two of persons convicted of robbery.

Taiwan's civilian prisons are severely overcrowded. In April 1982 the press reported that civilian prisons, built to accommodate 11,261 prisoners, were then holding 17,162 or 5,901 over capacity. Prisoners are forced to share cramped living quarters and have fewer opportunities for work, exercise, and family visits. Overcrowding was partially responsible for severe rioting which broke out in the juvenile section of Hsinthu Prison in March 1982.

Conditions in the military prisons administered by the security police, where political prisoners are confined, are reportedly less crowded. Prisoners receive the same food as soldiers and have work and recreation opportunities. Although conditions for the Kaohsiung-incident prisoners have reportedly improved since their arrest in 1980, six non-Nationalist Party legislators charged in July 1982 that these prisoners continue to be denied access to regular work programs and recreational activities, are prohibited certain amenities accorded other prisoners, and are subject to special rules which keep them separate from one another. A few of the Kaohsiung-incident prisoners are alleged to still suffer from the effects of pretrial mistreatment.

There is no known discrimination in the treatment of prisoners because of class, race, sex, or religion.

e. Arbitrary Arrest and Imprisonment

Taiwan's law of habeas corpus requires that, following an individual's arrest, the arresting authorities notify in writing the individual and his designated relative or friend within 24 hours of the reason for his arrest or detention. The Code of Criminal Procedure specifies that the authorities may detain an accused for up to two months during investigation prior to the filing of the formal indictment, and for up to three months during trial. During the investigation phase,

Under martial law, which has been in effect in Taiwan since 1949, civilians who commit certain offenses, including sedition, may be tried in military court. Opposition to basic policy (such as expressing views contrary to the authorities' claim to represent all of China, or supporting an independent legal status for Taiwan) is considered seditious and thus punishable under martial law.

The authorities occasionally transfer "important" civilian cases (involving such crimes as homicide, kidnapping, and armed robbery) to the military courts. The authorities state that the military courts' swifter and generally more severe justice acts as a deterrent to potential criminals. Sentences are reviewed only within the Ministry of National Defense. In May 1982, the case of Li Shih-ko, who confessed to carrying out Taiwan's first armed bank robbery and murdering a policeman, was referred to the military courts for action. Li's trial on May 18 lasted less than two hours and the sentence, death, was carried out eight days later.

Neither civil nor martial law provides the defendant with protection from incrimination. Following the July 1982 revision of the Criminal Procedures Code, suspects may for the first time have a lawyer present during interrogation. However, the authorities have indicated that the lawyer's role is to protect his client from mistreatment, rather than to provide legal counsel during questioning. In some cases, windows have been installed in police station interrogation rooms in order that lawyers (or family members) may see the suspect without hearing the questioning.

#### g. Invasion of the Home

Physical invasion of the home without a warrant is not a common practice in Taiwan, but does occur on occasion. The Code of Criminal Procedure requires that searches be authorized by warrants, signed by a prosecutor or, during a trial, by a judge. However, exceptions to this rule, previously few in number, were substantially increased by the revision of the code in July 1982. When making warrantless arrests, police may also make necessary searches of person or property without prior authority. Other types of violations of the home, such as monitoring telephone calls, are widely believed to exist.

### 2. Respect for Civil and Political Rights, Including:

#### a. Freedom of Speech and Press

The Constitution guarantees freedom of speech and the press. These rights are limited, however, by the enforcement of martial law restrictions. Individuals are not free publicly to question the regime's basic political policy of anti-communism and claim to sovereignty over all of China. Persons who speak favorably of communism or the People's Republic of China, or persons (usually native Taiwanese) who question the legitimacy of Taiwan's mainland authorities by suggesting support for Taiwan's independence or self-determination, can expect to be charged with sedition and tried in a military court.

Information brought to light during the investigation of the death of Professor Chen Wen-cheng in 1981 suggests that the security authorities closely monitor political expression, both at home and overseas. During questioning by the security

however, the prosecuting officer may apply to the court for one extension of two months. The period of detention may also be extended during the time the accused is on trial. In recent cases, including the Kaohsiung incident, the authorities generally have followed the requirements of the above provisions, with exceptions occurring more frequently in the military system.

Major changes in the Code of Criminal Procedure, affecting the rights of criminal suspects, were enacted by the Legislative Yuan in July 1982. Suspects were granted the right to legal counsel during the investigation phase, including the right to have a lawyer present during interrogation by police. This was viewed by legal experts as a positive step in the protection of arrestees' rights. However, despite the opposition of the legal establishment, the press, and many legislators, the authorities also forced passage of changes which allow police to arrest without a warrant anyone they suspect of committing a crime for which the punishment would be five years or more in prison. Police power was further augmented to allow police to call in suspects or witnesses for questioning without a formal summons. The authorities justified the new police powers by insisting that the revisions would only legalize long-standing police practices.

The authorities deny holding political prisoners. They have stated that at the end of 1975 there were 254 persons in prison on sedition charges. Some persons have been released and others arrested since that time, but this is the most recent figure made public by the authorities. In December 1982 the authorities disclosed that 92 prisoners convicted of sedition and related offenses are currently being held in the Green Island military prison, compared with 115 reported to be there by Amnesty International in February 1980. Nearly 20 of these, originally arrested for communist activities, have been imprisoned for more than 30 years and were excluded from a general amnesty in 1975. Many of these prisoners, all in their fifties and sixties, are reported to be in poor health.

Many minor crimes in Taiwan are handled under a statute which empowers the police not only to arrest but also to prosecute and punish offenders. This law sometimes has been used against political activists. A substitute law, long sought by legal reformers, was put forward by the authorities in October 1981 but quickly withdrawn after being publicly criticized by lawyers and legislators. Critics complained that the law was even harsher than the one it was meant to replace, particularly provisions for "educational punishment" in military prisons for those accused by police of disturbing "social peace." In March 1982 the authorities reintroduced the "educational punishment" provisions as a separate "hoodlums" law. Although they withdrew it again in the face of heavy criticism, the authorities have indicated that they still intend to enact a police powers law incorporating "educational punishment."

#### f. Denial of Fair Public Trial

Taiwan's legal system is based on European and Japanese models which do not incorporate trial by jury. Under a 1980 judicial reorganization, district and high courts were shifted from the control of the Executive Yuan to the Judicial Yuan, for the first time formally separating the courts from the prosecution function. It is generally held in Taiwan legal circles that the change has given the judiciary greater independence of action.

police immediately prior to his death, Chen was reportedly confronted with recordings of an international telephone call between himself in the U.S. and an opposition figure in Taiwan who was later jailed in connection with the Kaohsiung incident, and of a speech he gave in Pittsburgh supporting the Kaohsiung incident defendants. Although the Taiwan authorities later denied the existence of the Pittsburgh recording, the disclosures sparked a resurgence of allegations that Taiwan agents carry out a systematic program of surveillance and intimidation of Taiwanese students on American university campuses who are suspected of advocating Taiwan independence or self-determination. Indeed, Taiwan newspaper articles have noted the role of Taiwan security service units in the United States and Japan in monitoring dissident Taiwanese political activities. Although there have been reports of such surveillance from several US universities, the Taiwan authorities deny that they carry out surveillance on American campuses.

Censorship of publications occurs frequently. It is carried out through provisions of the publications law which empower the security police to seize or ban printed material that "confuses public opinion and affects the morale of the public and the armed forces." In 1982, the authorities allowed a rise in the number of domestic political opinion magazines, the more popular of which support non-Kuomintang politicians and criticize the party. One or more issues of several of these were banned during the year. Nominally the bans are in reaction to articles critical of the policies of the authorities or which discuss sensitive subjects, but they are widely viewed as tactics of intimidation. The limits of acceptable political criticism are not clear-cut. Even periodicals which are cautious in their selection of articles for publication have been banned from time to time. The ban of a single issue of a magazine may be followed by suspension of the publication's license for one year. In 1982, three magazines received this punishment.

Books are also occasionally banned by the security police. Control over the daily newspapers is exercised indirectly, through guidance from the central authorities' information office and the Kuomintang, and restrictions on the number of newspapers. Nevertheless, newspapers have expanded their coverage in areas previously forbidden, such as news from mainland China. Competition among the island's three television stations has also led to an expansion of their coverage of mainland and other sensitive international news, despite the fact that all three are partially or wholly owned by the authorities. Mounting criticism (Kuomintang as well as non-Kuomintang) of security police censorship, as well as of other elements of martial law administration, has compelled the authorities to defend their control apparatus. In June 1982 the Executive Yuan justified regular "selective postal checks" as necessary to intercept parcel bombs and illegal correspondence with mainland China. It was denied, however, that the authorities monitor telephone conversations.

Foreign publications are available, but are also subject to censorship by the security police and sometimes pages carrying articles offensive to the authorities are removed or blacked out before they are distributed. Some foreign publications are available through subscriptions only and are not allowed to be sold on newsstands. Occasionally, the credentials of foreign correspondents are suspended for articles which challenge important official views or positions.

tions and enter three-year senior high and vocational school programs. Entry into Taiwan's extensive system of higher education is also based on competitive exams, and departures from a strict merit system are almost nonexistent. In 1962, more than 20 percent of college-age youth were enrolled as undergraduate or graduate students.

We contacted Stevens, Murkowski & Young.

Stevens contacted the State Department. They stressed that they have no control over a state wanting to establish a sister state relationship with Taiwan, but they wanted to extend a serious warning to us.

It is imperative that the language in the resolution in no way be provocative toward China. Sara Ann Smith from the State Department (202-632-7710), said that Taiwan has approached many U.S. states to solicit resolutions of this kind and that they attempt to have those states refer to them as "The Republic of China" or "RSC." This reference is highly inflammatory language and may create difficulties with U.S. relations toward China. They suggested that the resolution refer to them as "The People of Taiwan" or "The Province of Taiwan."

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Sen. Stevens has sent a telegram to this office also warning of this.

From the State of Colorado

VE 15-2 6/29/81  
1981

COPY

HOUSE JOINT RESOLUTION NO. 1019.

BY REPRESENTATIVES Reeves, Prendergast, Schauer, Armstrong, Lee, Lillpop, Robb, and Stephenson; also SENATOR Hefley.

WHEREAS, The people of Taiwan, like the people of the United States and Colorado, have overcome great adversity and have built a successful, prosperous, free economy; and

WHEREAS, The people of Taiwan, have been among the closest friends of the people of Colorado for more than two-thirds of a century; and

WHEREAS, The Republic of China, has been one of the most faithful allies of the United States since 1941; and

WHEREAS, Strong commercial ties now exist between the citizens of the Province of Taiwan and the citizens of the State of Colorado; and

WHEREAS, The people-to-people program initiated by President Eisenhower in 1956, and endorsed by President Kennedy in 1961, was designed to bring the people of the world closer together in the interest of peace; and

WHEREAS, A sister state relationship between Taiwan and Colorado is in the best interests of a cooperative relationship between the two states involved; now, therefore,

Be It Resolved by the House of Representatives of the Fifty-third General Assembly of the State of Colorado, the Senate concurring herein:

That the General Assembly, on behalf of the people of Colorado, extends to the people of Taiwan, the Republic of China, through the Provincial Legislature of Taiwan, an invitation to join with Colorado as a sister state and as such to conduct such mutually beneficial social, economic, educational, and cultural programs as to bring our citizens closer together and strengthen international understanding and goodwill.

Be It Further Resolved, That copies of this resolution be sent to Lin Yang-Kang, Governor of Taiwan, Tsai Hung-Men, Speaker of the Provincial Legislature of Taiwan, Nich Wen-Ya, President of the Legislative Yuan, Republic of China, Richard D. Lam, Governor of Colorado, each member of Congress from the state of Colorado, and to the presiding officers of the legislative houses in each of the other states of the union.

---

Carl B. Bledsoe  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Fred E. Anderson  
PRESIDENT OF  
THE SENATE

---

Lorraine F. Lombardi  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Marjorie L. Rutenbeck  
SECRETARY OF  
THE SENATE



COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS  
OFFICE IN SEATTLE

24TH FLOOR, WESTIN BUILDING  
2001 SIXTH AVENUE  
SEATTLE, WASHINGTON 98121

TFL. (206) 682-4586 OR 682-4867

*I want to see the photos.*  
*LS*

*HT*  
*SB*  
*LS*  
*DC*

May 26, 1983

The Honorable Vic Fischer  
Senator  
State of Alaska  
Pouch V  
Juneau, AK 99811

Dear Senator Fischer:

It was indeed a great pleasure to make your acquaintance during our recent brief but eventful visit in Juneau. I found our conversation stimulating and enlightening. I appreciate very much for your kindness in squeezing out your precious time to receive us.

I am pleased to learn that a concurrent resolution for the establishment of sisterstate relationship between your great State and the Province of Taiwan is in process of adoption by the State Legislature and your Senate State Affairs Committee is going to put it on the agenda of the current Senate session for its adoption by the Senate floor. I would very much appreciate it if you could let me know its development.

Enclosed please find two photographs taken during our pleasant meeting at your office. Please accept them as mementos of our warm friendship.

With personal regards,

Sincerely yours,

Y. C. Chen  
Director

YCC-HCH/11  
Enclosure: as noted

David - I am  
beginning to follow  
SR 23 (Ziegler) on  
Taiwan. Will (or can)  
provide much more  
info. on Taiwan.

I testified in House  
State Affairs.

Peg Kehren

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*Sum Reg Kehran - Apr. 26 - 83*

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Taiwan's law of habeas corpus requires that, following an individual's arrest, the arresting authorities notify in writing the individual and his designated relative or friend within 24 hours of the reason for his arrest or detention. The Code of Criminal Procedure specifies that the authorities may detain an accused for up to two months during investigation prior to the filing of the formal indictment, and for up to 100 months during trial. During the investigation phase,

however, the prosecuting officer may apply to the court for one extension of two months. The period of detention may also be extended during the time the accused is on trial. In recent cases, including the Kaohsiung incident, the authorities generally have followed the requirements of the above provisions, with exceptions occurring more frequently in the military system.

Major changes in the Code of Criminal Procedure, affecting the rights of criminal suspects, were enacted by the Legislative Yuan in July 1982. Suspects were granted the right to legal counsel during the investigation phase, including the right to have a lawyer present during interrogation by police. This was viewed by legal experts as a positive step in the protection of arrestees' rights. However, despite the opposition of the legal establishment, the press, and many legislators, the authorities also forced passage of changes which allow police to arrest without a warrant anyone they suspect of committing a crime for which the punishment would be five years or more in prison. Police power was further augmented to allow police to call in suspects or witnesses for questioning without a formal summons. The authorities justified the new police powers by insisting that the revisions would only legalize long-standing police practices.

The authorities deny holding political prisoners. They have stated that at the end of 1975 there were 254 persons in prison on sedition charges. Some persons have been released and others arrested since that time, but this is the most recent figure made public by the authorities. In December 1982 the authorities disclosed that 92 prisoners convicted of sedition and related offenses are currently being held in the Green Island military prison, compared with 115 reported to be there by Amnesty International in February 1980. Nearly 20 of these, originally arrested for communist activities, have been imprisoned for more than 30 years and were excluded from a general amnesty in 1975. Many of these prisoners, all in their fifties and sixties, are reported to be in poor health.

Many minor crimes in Taiwan are handled under a statute which empowers the police not only to arrest but also to prosecute and punish offenders. This law sometimes has been used against political activists. A substitute law, long sought by legal reformers, was put forward by the authorities in October 1981 but quickly withdrawn after being publicly criticized by lawyers and legislators. Critics complained that the law was even harsher than the one it was meant to replace, particularly provisions for "educational punishment" in military prisons for those accused by police of disturbing "social peace." In March 1982 the authorities reintroduced the "educational punishment" provisions as a separate "hoodlums" law. Although they withdrew it again in the face of heavy criticism, the authorities have indicated that they still intend to enact a police powers law incorporating "educational punishment."

#### f. Denial of Fair Public Trial

Taiwan's legal system is based on European and Japanese models which do not incorporate trial by jury. Under a 1980 judicial reorganization, district and high courts were shifted from the control of the Executive Yuan to the Judicial Yuan, for the first time formally separating the courts from the prosecution function. It is generally held in Taiwan legal circles that the change has given the judiciary greater independence of action.

Under martial law, which has been in effect in Taiwan since 1949, civilians who commit certain offenses, including sedition, may be tried in military court. Opposition to basic policy (such as expressing views contrary to the authorities' claim to represent all of China, or supporting an independent legal status for Taiwan) is considered seditious and thus punishable under martial law.

The authorities occasionally transfer "important" civilian cases (involving such crimes as homicide, kidnapping, and armed robbery) to the military courts. The authorities state that the military courts' swifter and generally more severe justice acts as a deterrent to potential criminals. Sentences are reviewed only within the Ministry of National Defense. In May 1982, the case of Li Shih-ko, who confessed to carrying out Taiwan's first armed bank robbery and murdering a policeman, was referred to the military courts for action. Li's trial on May 18 lasted less than two hours and the sentence, death, was carried out eight days later.

Neither civil nor martial law provides the defendant with protection from self-incrimination. Following the July 1982 revision of the criminal procedures code, suspects may for the first time have a lawyer present during interrogation. However, the authorities have indicated that the lawyer's role is to protect his client from mistreatment, rather than to provide legal counsel during questioning. In some cases, windows have been called in police station interrogation rooms in order that lawyers (or family members) may see the suspect without hearing the questioning.

g. Invasion of the Home

Physical invasion of the home without a warrant is not a common practice in Taiwan, but does occur on occasion. The Code of Criminal Procedure requires that searches be authorized by warrants, signed by a prosecutor or, during a trial, by a judge. However, exceptions to this rule, previously few in number, were substantially increased by the revision of the code in July 1982. When making warrantless arrests, police may also make necessary searches of person or property without prior authority. Other types of violations of the home, such as monitoring telephone calls, are widely believed to exist.

2. Respect for Civil and Political Rights, Including:

a. Freedom of Speech and Press

The Constitution guarantees freedom of speech and the press. These rights are limited, however, by the enforcement of martial law restrictions. Individuals are not free publicly to question the regime's basic political policy of anti-communism and claim to sovereignty over all of China. Persons who speak favorably of communism or the People's Republic of China, or persons (usually native Taiwanese) who question the legitimacy of Taiwan's mainland authorities by suggesting support for Taiwan independence or self-determination, can expect to be charged with sedition and tried in a military court.

Information brought to light during the investigation of the death of Professor Chen Wen-cheng in 1981 suggests that the security authorities closely monitor political expression, both at home and overseas. During questioning by the security

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police immediately prior to his death, Chen was reportedly confronted with recordings of an international telephone call between himself in the US and an opposition figure in Taiwan who was later jailed in connection with the Kaohsiung incident, and of a speech he gave in Pittsburgh supporting the Kaohsiung incident defendants. Although the Taiwan authorities later denied the existence of the Pittsburgh recording, the disclosures sparked a resurgence of allegations that Taiwan agents carry out a systematic program of surveillance and intimidation of Taiwanese students on American university campuses who are suspected of advocating Taiwan independence or self-determination. Indeed, Taiwan newspaper articles have noted the role of Taiwan security service units in the United States and Japan in monitoring dissident Taiwanese political activities. Although there have been reports of such surveillance from several US universities, the Taiwan authorities deny that they carry out surveillance on American campuses.

Censorship of publications occurs frequently. It is carried out through provisions of the publications law which empower the security police to seize or ban printed material that "confuses public opinion and affects the morale of the public and the armed forces." In 1982, the authorities allowed a rise in the number of domestic political opinion magazines, the more popular of which support non-Kuomintang politicians and criticize the party. One or more issues of several of these were banned during the year. Nominally the bans are in reaction to articles critical of the policies of the authorities or which discuss sensitive subjects, but they are widely viewed as tactics of intimidation. The limits of acceptable political criticism are not clear-cut. Even periodicals which are cautious in their selection of articles for publication have been banned from time to time. The ban of a single issue of a magazine may be followed by suspension of the publication's license for one year. In 1982, three magazines received this punishment.

Books are also occasionally banned by the security police. Control over the daily newspapers is exercised indirectly, through guidance from the central authorities' information office and the Kuomintang, and restrictions on the number of newspapers. Nevertheless, newspapers have expanded their coverage in areas previously forbidden, such as news from mainland China. Competition among the island's three television stations has also led to an expansion of their coverage of mainland and other sensitive international news, despite the fact that all three are partially or wholly owned by the authorities. Mounting criticism (Kuomintang as well as non-Kuomintang) of security police censorship, as well as of other elements of martial law administration, has compelled the authorities to defend their control apparatus. In June 1982 the Executive Yuan justified regular "selective postal checks" as necessary to intercept parcel bombs and illegal correspondence with mainland China. It was denied, however, that the authorities monitor telephone conversations.

Foreign publications are available, but are also subject to censorship by the security police and sometimes pages carrying articles offensive to the authorities are removed or blacked out before they are distributed. Some foreign publications are available through subscriptions only and are not allowed to be sold on newsstands. Occasionally, the credentials of foreign correspondents are suspended for articles which challenge important official views or positions.

### Freedom of Peaceful Assembly and Association

Freedom of Assembly is guaranteed by the Constitution. While assembly for nonpolitical purposes is generally permitted, assembly for political purposes, except during elections, is often prevented under martial law provisions. During authorized 15-day campaign periods which preceded island-elections on November 14, 1981 and January 16, 1982, all rallies, including oppositionists, were allowed to hold meetings. Those rallies, however, were closely monitored by the authorities under the Elections and Recall Law of 1980, which made candidates liable for prosecution for "seditious" statements.

Outside of the authorized campaign periods, some oppositionists held rallies characterized as "private parties." The authorities' response was moderate but firm and such "parties" were usually broken up. The same tactic, used by Kuomintang candidates, usually drew no response from the authorities. Proposed revisions of the election law announced by the authorities will outlaw the use of "private parties" in future elections.

There is no tradition of trade unionism in Taiwan, and labor unions do not exercise significant influence either in the economic or political sphere. While labor unions are permitted, organizational lockouts and strikes are prohibited under martial law. Collective bargaining, although provided for by legislation, does not exist.

#### c. Freedom of Religion

Freedom to practice religion is guaranteed by the Constitution. Most Taiwan inhabitants adhere to Confucianism, Taoism, Buddhism, animism, or a combination of beliefs. Other religions include Christianity and Islam. Some pseudo-Buddhist sects and Sun Myong Moon's Unification Church have been banned, due to parents' complaints that these groups were a corrupting influence on Taiwan youth. The groups were accused of leading youth to engage in "abnormal behavior" that involved turning their backs on their families, shifting their allegiance from state to church, and actively proselytizing for further converts. Action was taken on the basis of the police offenses law, a catch-all statute which allows the police to punish minor offenders without referral to the courts.

While generally respecting the right to practice religion, the authorities have brought pressure to bear against religious organizations they consider to be involved in unacceptable political activity. In 1977 the Presbyterian Church in Taiwan (179,000 members), long suspect for its advocacy of Taiwanese rights, issued a "Declaration on Human Rights" to which the church leadership has since repeatedly reaffirmed its commitment. By calling for Taiwan's transformation into a "new and independent country," the declaration has placed Taiwan's Presbyterians, leaders (almost all native Taiwanese) in a clear position of questioning Taiwan's mainlander-controlled political institutions.

Friction between the Presbyterian Church and the authorities came to a head in 1980 when the church's general secretary, Reverend Kao Chun-ming, and several other Presbyterians were convicted in military court of harboring seditious defendant Shih Ming-te. While admitting he had assisted Shih, Rev. Kao denied seditious intent; he declared his religious vocation

precluded his betraying someone who had sought help and permitted him only to advise Shih to give himself up. Although relations between the church and the authorities have relaxed somewhat recently, the authorities continue to monitor church activities closely. The authorities have warned church members to avoid involvement in oppositionist political efforts or Taiwan independence activity.

In 1982 the authorities established a religious council, made up of representatives of the island's major religious bodies, to advise them on church matters. There are fears that the council may be used to justify unpopular official policies. Similar concerns have been expressed about legislation proposed in 1981 to regulate church activities. The proposed legislation is opposed by the island's major religious organizations as a threat to freedom of religion, although the authorities argue that the law is necessary to "define the scope of religion" and to "protect freedom of religion." An additional proposed measure would for the first time place religious educational institutions under the control of the Ministry of Education. The authorities argue that this would improve the quality of instruction and provide accreditation for the diplomas granted by these schools. Critics point out that it would also empower the Ministry of Education to control curricula and to place a military training officer in each school. Although action on these measures has so far been withheld, the authorities have not renounced their intention to enact them.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the freedom to change residence. There is general freedom of internal travel in Taiwan, except to military and other restricted areas. Emigration and private travel abroad have become freer since 1979. After the last calendar day of the year in which they turn fifteen, males may not leave Taiwan until completion of their military service. Since 1980, businessmen have been permitted to travel to and do business directly with certain Eastern European countries. Moreover, it is widely believed that the authorities are willing to overlook some personal travel to mainland China if handled discreetly.

Permission to leave Taiwan may be delayed or withheld for security reasons or because the persons involved have criticized the political establishment. Statistics released by the authorities indicate that in 1980, the last year for which we have figures, 949,306 persons applied for exit permission. Of that number, over 20,000 are reported to have been refused, 327 for security reasons and the rest for unspecified causes.

In general, the authorities recognize the right of repatriation of those Chinese holding Taiwan passports who normally reside in Taiwan. Those issued "overseas Chinese" passports do not automatically have the right to travel to Taiwan for permanent residence. In principle, Taiwan will not authorize the entry of Chinese, even those who have long held Taiwan passports, if they have lived in communist-controlled areas within the preceding five years.

Under its program of assistance to Indochinese refugees, Taiwan, through June 1982, has granted permanent resettlement to more than 4,700 such refugees, nearly all of them ethnic Chinese. It has also provided temporary asylum to nearly 2,000

Vietnamese "boat people" (refugees escaping by boat) awaiting acceptance by other countries.

e. Freedom to Participate in the Political Process

Reflecting their claim to be the Government of all of China, the Taiwan authorities possess an array of political bodies over and above those which pertain solely to the island of Taiwan. The locus of power on Taiwan is the presidency and the central executive branch. While representation of native Taiwanese in local and central legislative bodies has been increasing, Taiwanese are seriously under-represented in the powerful executive branch, in which persons who arrived from the mainland after 1945 hold the most powerful positions. There have been recent increases in the number of Taiwanese holding executive branch positions, however. The Vice President, about one-third of the cabinet (including the Vice Premier, the Minister of the Interior, the Minister of Communications, and three Ministers without Portfolio), and the Governor of Taiwan, among others, are Taiwanese. Nevertheless, critics point out that their power and influence both individually and collectively are limited.

The most important elective bodies at the central level are the National Assembly, which elects the President and Vice President, and the Legislative Yuan, which is the Central Legislature. There have been no general elections to these two bodies since 1948, the authorities taking the position that such elections cannot be held until they re-establish control over the mainland. In October 1982 the Minister of the Interior explained that if overall elections were held the winners could not represent all of China, but only Taiwan province. Beginning in 1969, "supplementary elections" for these central bodies have been held to choose additional representatives from Taiwan and the adjacent islands. The advanced age and incapacity of many of the members of the Legislative Yuan elected on the mainland in 1948 forced the authorities in 1982 to lower the number of legislators required for a quorum. Supplemental legislators elected on Taiwan now constitute the most active group in the Legislative Yuan.

Since 1950, democratic institutions have been in operation at the provincial and local levels. Universal suffrage exists for all citizens twenty years of age and over. Elections have been held regularly for provincial, county and municipal offices, with Kuomintang candidates competing with independents and oppositionists. The Taiwan provincial governor and the mayors of Taipei and Kachsiung, however, are appointed by the central authorities.

Despite the existence of two small, nominal opposition parties, Taiwan is dominated by one party. The Nationalist Party has ruled Taiwan since 1945 and is a "revolutionary" party whose structure and control mechanisms are based on early Soviet models. Party organs exist at all levels of the ruling structure, as well as in the military, schools, and other public institutions. New opposition parties are forbidden under martial law and candidates who oppose the Kuomintang in elections run as independents or "non-party" candidates. Even though the large majority of candidates elected are from the Kuomintang, independent candidates, nearly all Taiwanese, have increasingly been successful in the recent past. In the

provincial elections in November 1981, a loose coalition of "mainstream non-Kuomintang" candidates won about 30 percent of the votes cast, with non-aligned independents and members of the legal opposition parties winning an additional 10 percent. Independents won a similar share of votes in the previous provincial elections in 1977.

Independents face several disadvantages in the election process. The election law enacted in 1980 generally favors Kuomintang candidates, because its provisions, many of which are ambiguous, are interpreted by the central election committee which is controlled by the Kuomintang. The law forbids the participation of students, formerly a prime source of campaign workers for independent candidates, and allows only officially sponsored rallies in which all candidates participate together in the last few days before an election. Independent candidates are further disadvantaged by press self-censorship. The daily press tends to give little publicity to the views of the independents. Periodicals which publicize the views of independent candidates are subject to frequent censorship by the security police. However, such periodicals were not silenced during the provincial elections in November 1981, as they were during previous elections, and they have since been allowed to increase in number.

Women constitute 48 percent of Taiwan's population. The few laws which discriminate against them relate mostly to divorce issues and inheritance. Nearly 500 women were elected to city and town councils in June 1982, taking about 13 percent of the total seats up for election, while in the December 1980 "national" elections women candidates were the top two vote-getters. Regulations governing elections make some provision for guaranteed minimal representation of women in local and central legislative institutions. Enrollment of women in institutions of higher learning has increased 97 percent since 1952, to 411,000 in 1982. The number of women employed in ministries and other official agencies has increased by 40 percent since 1973. A fledgling women's rights movement is slowly growing.

Taiwan's only non-Chinese minority group is made up of descendants of Malayo-Polynesian immigrants who were already established in Taiwan when the first Chinese settlers arrived. Many of these aboriginal "mountain people," who comprise about one per cent of Taiwan's total population, live on restricted-access reservations, but most must compete with the Chinese majority for educational and job opportunities. There is no official policy of discrimination against the aborigines, and the authorities have instituted educational incentives and other social programs to ease their transition into Chinese society. The barriers created by de-facto cultural and economic discrimination, however, are frequently insurmountable. "Mountain people" are often relegated to low-paying, menial jobs by Chinese employers and many are forced to seek long-term employment overseas as fishermen or laborers. The rapid disintegration of tribal culture and the difficulty of "making it" in Chinese society have produced a general malaise within many aborigine communities, which is the source of the widespread alcoholism and "laziness" sometimes caricatured by unsympathetic Chinese. Special designated seats in both central and provincial legislative bodies are reserved for aborigine representatives.

### 3. Authorities' Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

The Taiwan authorities on occasion have permitted representatives of international human rights organizations, as well as private individuals interested in human rights issues, to visit Taiwan and meet with appropriate officials.

Taiwan's martial law was the subject of hearings before the Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee in May 1982. Prior to this, four members of Congress issued an appeal to the Taiwan authorities calling for an end to the 33-year-old martial law.

The Chinese Human Rights Association, which in the past has focused its attention primarily on human rights questions in mainland China, has recently devoted more of its efforts to human rights in Taiwan. In 1982, the Association sponsored tours for law-makers and legal experts to examine Taiwan's crowded prisons and established a legal aid service for Taipei residents. The association has also put together a human rights report on Taiwan, which was to be released in late 1982. Freedom House, in its 1982 report, rates Taiwan as "Partly Free."

#### 4. Economic, Social, and Cultural Situation

Taiwan has established an excellent record of providing for the social and economic needs of its people. In general, the opportunity to participate in economic benefits is available to the population as a whole without discrimination. The per capita gross national product (GNP) in 1981 was over \$2,500. Unemployment in the first half of 1982 averaged 1.62 percent. The authorities' fiscal 1983 budget allocated more than 30 percent of the total budget to education, science, culture, and social programs.

Although economic growth has recently fallen short of the spectacular rates achieved earlier (GNP grew at a rate of 3.91 percent in the first half of 1982, compared with the 1969-1979 average rate of 10 percent), the economy remains healthy. The prospects for continuing economic well-being are favorable as the authorities attempt to shift the focus of their export-based economy to high-technology industries.

Taiwan has developed an effective public health program and a system of health stations throughout the island - a total of more than 11,000 medical care facilities. In 1980, Taiwan had more than 7.5 physicians, 6.6 nurses, and 22 hospital beds for every 10,000 persons. Health promotion programs include maternal and child disease control and environmental sanitation. Major epidemic disease has been reduced, although limited outbreaks, such as a surge in polio cases in August 1982, still occur. Because of these public health programs and a generally good diet (per capita daily caloric intake exceeds 2,800), life expectancy has increased to 70 years for men and nearly 75 years for women. Taiwan's birth control efforts have been successful in bringing the birth rate in 1981 down to 1.77. This has been crucial in alleviating population tensions on the island, where the population density per square mile of cultivable land exceeds 5,000.

Education is one of the main concerns of the authorities and the population in general. Statistics show that 90.2 percent of the population over age six are literate. Of school-age children, 99.8 percent are currently in school and free compulsory education is available through junior high school. About 60 percent of junior high school graduates pass examina-

tions and enter three-year senior high and vocational school programs. Entry into Taiwan's extensive system of higher education is also based on competitive exams, and departures from a strict merit system are almost nonexistent. In 1982, more than 20 percent of college-age youth were enrolled as undergraduate or graduate students.



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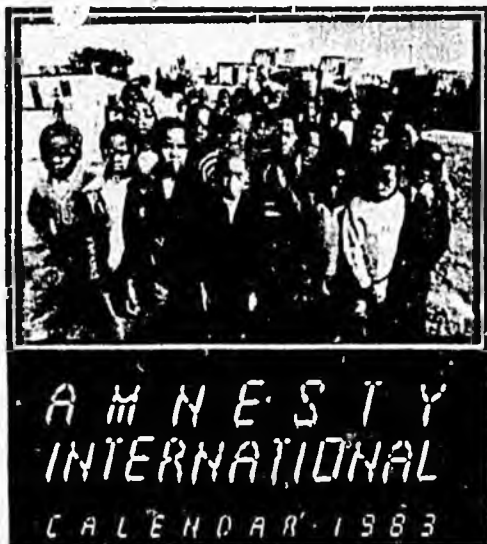
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June 10, 1983.

Dear Senator Fisher:

Thank you very much for passing  
the Resolution No. 42 to the House for  
its adoption on May 24.

Since you are key figure to the  
Resolution, without your firm support,  
it would be difficult to get through  
the Senate this session. I do hope  
our people-to-people, trade and cultural  
relationship will be further enhanced  
by establishing TAIWAN-ALASKA sister state  
ties under your sponsorship.

With my best regards.

P.S. I did call your  
office several times  
today, but you were  
in meeting.

Sincerely,

Y. C. Chen.

# ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

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## MEMORANDUM

TO: Senator Vic Fischer

FROM: David Dye <sup>DZ</sup>  
Committee Aide

DATE: June 15, 1983

SUBJ: SJR 23 -- Establishment of a sister state relationship with  
Taiwan

On the advice of Representative Abood's staff, I contacted Senator Stevens' office regarding this resolution. Bill Phillips, a senior staffer, advised me that Senator Stevens does not support making Taiwan a sister state because such action might be interpreted by our other Asian trading partners as a preference for Taiwan -- a special relationship which others might not enjoy. Senator Stevens has stated these concerns in a letter to Rep. Abood in which he was also mindful of the great trade potential between Alaska and the People's Republic of China.

I also contacted Mr. Don Ferguson at the Taiwan desk of the U.S. State Department. He stressed that the language in the resolution should in no way be provocative toward the People's Republic. For instance, use of the term "Republic of China" to refer to Taiwan is considered highly inflammatory and could damage U.S. relations with the People's Republic. He also said that Taiwan officials have approached a number of state legislatures with these resolutions and he counseled extreme caution in considering them. Senator Ziegler's staff is aware of this problem and has submitted a draft committee substitute which has eliminated the "provocative" language.

Mr. Ferguson was very diplomatic about not trying to influence the Alaska Legislature but he did stress that these resolutions can cause problems in maintaining the United State's formal relationship with China.

Senator Vic Fischer  
Page 2  
June 15, 1983

At the suggestion of one of your constituents, I also contacted Nick Rizza in the San Francisco office of Amnesty International. That organization is very concerned about the long term detention of prisoners of conscience by the Taiwan government. There are approximately 120 such prisoners, 20 of whom have been jailed for more than 30 years for non-violent expression of political beliefs. One trade unionist has been imprisoned since 1950. Another "communist" was recently released after having been imprisoned since 1949 for tacking up a poster. There is also concern about secret executions.

Several Alaska human rights organizations have been following the progress of HJR 42, the identical House resolution, and are likely to have representatives at future hearings.

Given the sensitive foreign policy implications of this resolution, I suggest that the State Affairs Committee give it careful scrutiny before passage is considered.

SJR

28

# ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

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## MEMORANDUM

TO: Senate State Affairs Committee  
FROM: Senate State Affairs Committee Staff  
RE: CSSJR 28 right to bear arms.  
DATE: May 3, 1984

The proposed CS for SJR 28 does not change the intent of the original resolution.

The CS clarifies that the right to bear arms is an individual right, but still allows the carrying of arms to be regulated by law.

The CS differs from the original version of the resolution in the language used to express that the individual may bear arms for lawful purposes. The language in the two version are as follows:

CSSJR 28 lines 15-16: "but the manner of bearing arms may be regulated by law."

SJR 28 lines 14-16: "for defense of self, home, property, or for other lawful hunting and recreational use, or for other lawful purposes shall not be infringed."

*Sen Rodey  
Rupe Andrews  
Ron Somersville  
Chief Brian Foster  
Allen Bailey, Anch Pro  
AG  
Dept of Publ - Safety*

SENATE STATE AFFAIRS COMMITTEE

SJR 28  
KEEP AND BEAR ARMS

Anchorage, Alaska  
April 20, 1984

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VIC FISCHER: Again for the record, this is the Senate State Affairs Committee hearing on Senate Joint Resolution 28, proposed by Rodey and others, to amend the Constitution of the State of Alaska relating to the right of a person to keep and bear arms. There are several people signed up to testify. This first one is Lowell Woods. Senator Rodey, by the way, is out of state. He apologizes for not being here. Patty Macklin, his staff assistant, is here. You want to make a statement?

PATTY MACKLIN: I'm Patty Macklin, a member of Senator Rodey's staff. I'm here to represent Senator Rodey's interest in this resolution that he is sponsoring. I'd like to first thank you for holding a public hearing on this legislation. Given that the Constitution is the basis for the people of Alaska, their individual rights and freedoms, I'm sure you will .... [inaudible] ....

INAUDIBLE SECTION CONTINUES

LOWELL WOODS: [inaudible] .... the very best protection of their personal use and ownership of these arms. That concludes my testimony. Thank you.

FISCHER: OK. Why do you feel this is necessary? Do you feel that the Matanuska Valley sportsmen have been restricted in their ability to keep guns? I assume you're interested in sports guns. Have there been any restrictions placed upon or proposed?

WOODS: Yes. We have the distinction, in the City of Palmer and the Mat-Su Borough, of having one of the very few gun control ordinances in the State of Alaska. As a matter of fact, this is not burdensome at this particular moment. However, were the law strictly enforced, it would be treating, again, these careful, law-abiding users of firearms, which are the 99.9% majority of Alaskans, in the same category as those who misuse these firearms. We, personally, object to this.

FISCHER: What does the ordinance say?

WOODS: The ordinance prohibits the carrying of firearms within the city limits.

FISCHER: You cannot carry a rifle when you go hunting if you live in Palmer?

WOODS: Certainly. As the ordinance is enforced, it is not burdensome.

- FISCHER: Would the ordinance prohibit your having a rifle if you're going hunting and you're leaving your home, if you live in Palmer. Could you not legally, under that ordinance, carry your rifle on your way to a moose hunt, whether you walk or are driving a car?
- WOODS: I'm sorry, I'd have to research that. I really can't answer your question.
- FISCHER: Would you provide us with a copy of the Palmer ordinance?
- WOODS: I certainly will.
- FISCHER: I think that would be real important if we have something on the books in Alaska that does restrict what is an accepted right of people, certainly in Alaska, and I think nationally, to keep rifles, shotguns, and other hunting paraphernalia.
- WOODS: I think it's mistaken to just address those particular weapons. I'm a long-time pistol target shooter, both Olympic and national association and when I was in the military, I'm a distinguished pistol shot -- one of a very few in the nation with a .45 and these guns are no more, no less, dangerous than any other thing that we possess in our technology that can do harm to other persons. The fact that some people use them to harm other persons does not mean that the very, very vast majority of the owners of these pieces of technology, as it were, are to be discriminated against. I think that's very basic to our action on this particular amendment.
- FISCHER: I agree with you. The burden of proof for a Constitutional Amendment has to be on those who propose it. There has to be, you might say, an overwhelming reason to amend the Constitution. So far as I know, I don't know what the Palmer ordinance says, but I know nothing in the Municipality of Anchorage that keeps me from keeping a target pistol or other kind of revolver, and lawfully carrying it from one place to another. I don't know of anything that restricts it so I'm trying to find out what there is. If we deal with all sorts of potentials, we would fill the Constitution with provisions that nobody can be prevented from carrying a hunting knife so long as it's not concealed or nobody shall be restricted in their right to drive a motor vehicle so long as they lawfully drive it and don't kill someone. We don't fill the Constitution to cover every eventuality, to cover every possible fear that we may have that somebody might, sometime, somewhere, take something away from us. That's why I keep pushing, because the burden of proof has got to be on your side, as to why there's an overriding necessity to amend the Constitution. This is a marvelous political gimmick. If I were running for re-election this year, I might use this as my platform and say, "I'm out to protect Alaskan's right to bear arms," and so on. Pure politics, but there's got to be more than that to amend the Constitution. I hope you understand what I'm saying.

WOODS: I don't understand why you refuse to let the public of Alaska vote on the issue and make their own determination.

FISCHER: Number one, I don't refuse the right of the people of Alaska to vote. The Constitution of the State of Alaska says that it requires a two thirds vote of each house of the legislature to put a Constitutional amendment before the people of Alaska. That means the Constitution puts certain obstacles in the way of just amending the Constitution. It's not a matter of a popularity contest; every time something comes along you vote on whatever you like. The Constitution is a basic document. We're dealing with one of the basic, guaranteed rights. We've amended the Constitution on a couple of occasions. We've amended in the area of rights. Article I, Declaration of Rights, was amended to provide for guarantee of the right to privacy. That was specifically done because there were problems encountered. The right of privacy of individuals was infringed upon. The arguments were strong enough, the burden of proof was taken by those who wanted the amendment, and the amendment was put to the legislature and before the people. So, it's not a matter of my opinion versus your opinion. The Constitution itself says that the burden of proof is upon those who propose amendments.

WOODS: Thank you.

FISCHER: You're welcome. I hope you understand that. Thank you very much. Next is Jean Woods, or are you an observer? Thank you. Wayne Anthony Ross.

W.A. ROSS: Senator, I would just as soon wait until after I hear the comments of the Municipal Prosecutor and the Chief of Police. If I could be moved to the end ....

FISCHER: It's up to the members. All right. Mike Mooney.

MIKE MOONEY: My name is Michael Mooney and I'm a resident of Anchorage, Alaska. I'm representing the Alaskan Gun Collectors on this amendment.

Our group, as you know, is interested in the collection of firearms as an inanimate object and I can best agree with Mr. Szymanski's clarification of what we're trying to do here. To clarify the Constitution that the individual person, and not the collective militia, has the right to keep and bear arms, which is, again, based upon the Morton Grove. There's overwhelming evidence of that being eroded away right now. What we want to do is to go on record to clarify the individual person's rights and responsibilities in the use of firearms in this state.

FISCHER: Are you done?

MOONEY: Yes.

- FISCHER: Do you think that Alaska might follow the Morton Grove example with the kind of people that we have in Alaska where we could move in that direction?
- MOONEY: Based upon the large number of influx of people from all over the United States coming to this state now, it's a distinct possibility.
- FISCHER: So you're afraid that your right to keep arms might be infringed upon.
- MOONEY: Yes.
- FISCHER: Do you know how many municipalities there are in the United States?
- MOONEY: No, sir.
- FISCHER: I think there are about 40,000 [indistinct] .... This is a tiny little speck on the map. Do you really think there's a wave of restrictions underway?
- MOONEY: Based upon what you read in the newspapers and the impressions you get, the misquotes you get from the newspapers, that could be started.
- FISCHER: Don't we have a situation where we've had two municipalities, two communities, adopt gun laws two years ago whenever it was -- Morton Grove and a community in Georgia: in Georgia, requiring all citizens to have arms for self defense purposes; Morton Grove prohibiting. Do you think that is a national trend -- two communities?
- MOONEY: I really don't know but we've heard a lot about Morton Grove and very little about the Alabama town.
- FISCHER: Well, I've heard about them both but I thought you might know something ....
- SZYMANSKI: Mr. Chairman, I'll respond to one of your questions since it's related to whether or not there's any movement afoot. I think you will remember, it wasn't but a few years ago, we advanced Title 29 to the Governor and the State of Alaska. In his veto message to Title 29 he specifically stated, "The amendment prohibiting local governments from passing ordinances relating to firearms has been violently objected to by some law enforcement people. It causes me concern as well as because my reluctance to permit State government to impede the ability of local communities to govern in the manner deemed by themselves most responsive to the unique needs." He indicated, at least in this case, that he vetoed Title 29 and that provision, because he felt that local governments can and should have the ability to do it.

FISCHER: Do you remember what that provision was?

SZYMANSKI: The exact provision is in here, yes. I can supply you a copy of it.

FISCHER: I happen to remember what the issue was and the issue was that it would have, in the opinion of some police officers and I think the chief may testify on that, might have restricted the ability of the Municipality of Anchorage to control the carrying of concealed weapons. I'm not sure whether the gentleman who testified so far would argue that all citizens should be allowed to carry concealed weapons within the municipality, for instance, without any restrictions except \_\_\_\_\_ prevented by law. That was the issue.

SZYMANSKI: But, once again, you getting back to your interpretation, somebody else's interpretation. The problem that we're having right now, and I think it's the reason that we should allow the people of Alaska -- and first of all, I disagree with your premise that any Constitutional amendment must be advanced upon a proven need.

In other words, if that was the case, I'm not too sure we would have had the Constitution that we have today, because I'm not too sure everybody in the State of Alaska wanted every provision that's in that Constitution today, and we overwhelmingly endorsed it, or embraced every provision within it. I think there may be some restrictions that are there that impede the public but if the people of Alaska vote in support of a provision in the Constitution, so be it. That's the public's prerogative to do. I think we have to be responsible enough to advance what I think is a concern to the public and make that determination. To prohibit the public, once again to me, may be an infringement under the Constitution which I'm not even too sure sometimes that we don't over-extend ourselves \_\_\_\_\_ political power in restricting the public's will to be able to deal with an amendment to the Constitution. I mean, we can get into a lot of Constitutional debate on it, but going back to you and this particular case in regard to gun collectors and so forth.

You've had the opportunity in the past to deal with collections of guns and so forth. I guess the question I would have is, have you read over the "history" on that Morton Grove case?

MOONEY: Not completely, but the general idea of not allowing the handguns in the person's own home for self-protection has been denied.

SZYMANSKI: The position that you take is obviously that it shouldn't be prohibited.

MOONEY: Right.

- SZYMANSKI: The current interpretation that many people have had is that there is nothing to prohibit the Municipality of Anchorage from doing that today, to execute the same, identical ordinance.
- MOONEY: That's right.
- SZYMANSKI: I don't think that it would take much of a poll to go out here and do a litmus test of the public at large, but I don't think that there's anybody that obviously supports that provision and I think it's a protection that we need to put in place through the Constitution -- a protection that is there to prohibit that from occurring, because in isolated instances, as you know under Title 29, almost any municipal government can vote themselves to go dry, as an example. It could happen and I think if that possibility exists, then it's wrong. That's the significance of the issue.
- FISCHER: Did Morton Grove prohibit the collecting of guns?
- MOONEY: I believe it was the prohibiting of the firearms in the home. If you could collect handguns and take them out of Morton Grove to a relative's house in the next town ....
- FISCHER: If you were a gun collector, you'd say you could not live in Morton Grove and keep your gun collection in Morton Grove.
- MOONEY: It's my understanding, yes.
- FISCHER: I have a question. I guess, Mike, you're the advocate here. As I read the amendment, there's nothing here to strengthen the municipality from requiring that any person keeping and bearing arms for defense of self, home, or property, shall have the arms registered. So under this amendment, the Municipality of Anchorage could still require registration of guns, right?
- SZYMANSKI: They could, but whether or not it would stand the test of the courts, I don't know. Because if that was to be interpreted, and I would interpret that as a restriction in violation of that Constitutional provision. That's a good example.
- FISCHER: Why would that be a restriction?
- SZYMANSKI: Because I think that that could be construed to prohibit or construed to restrict. It would be a restriction. In other words, you're conditionally providing for the right to bear arms, and I'm not too sure that you could.
- FISCHER: Isn't that no less and no more a restriction than the restriction on your ability to own and operate a motor vehicle? It's a requirement to register your motor vehicle.
- SZYMANSKI: But the Constitution doesn't provide for my right to operate a motor vehicle.

FISCHER: I'll ask the lawyers.

SZYMANSKI: That's all I have.

FISCHER: Thank you. Brian Porter.

BRIAN PORTER: Thank you, Mr. Chairman.

FISCHER: Would you identify yourself?

PORTER: I'm sorry. Brian S. Porter, Chief of Police, Anchorage Police Department. I'm here as an individual.

Just having found out about this proposal two days ago, I have not been able to establish a position on it from the Chiefs of Police Association or Alaska Police Officers. Being here, testifying on this particular amendment puts me personally in a somewhat unusual position. I would not want you, Mr. Chairman, or the committee to get the impression that I don't support the Constitutional provision of the right to keep and bear arms. What, I guess, I would like to convey with my testimony is a concern that I am not aware of any reasonable, credible threat to that right being diminished in this state or within this municipality. The only conclusion that I could reach, then, would be that this was an attempt to expand the use of firearms within this state. The method of doing this, with a Constitutional amendment, unfortunately leaves, regardless of whether a person voted on it, the real interpretation of what it means up to the Supreme Court. The analogy that gives me this concern is as, you mentioned, the Constitution has been amended to include right to privacy. I doubt, very seriously, if anyone intended, or anyone testified during the discussions of that Constitutional amendment, in support of a right of privacy so that marijuana would be legal in a person's home for an adult to cultivate or smoke it, but that's exactly what the State Supreme Court allowed via the Constitutional amendment for the right to privacy. So, in terms of allowing the Supreme Court to say what this particular provision means, I'm not comfortable with that. I don't think, as I mentioned, that there's any viable threat to anyone's right to keep and bear arms. Consequently, I would have real concerns if this provision were on the books.

FISCHER: Thank you, Chief. Let me ask you a few questions about what exists now. What can a non-felon do now in terms of keeping and bearing arms for defense of self, home and property, or for lawful hunting, recreational use, in terms of what can one keep in the home, what can one carry, how can one and how can one not carry weapons?

- PORTER: I guess that the types of firearms that are available break down into three areas: those that are prohibited in and of themselves because they are automatic weapons; then there's long barrel rifles; and short barrel pistols. The law allows an exception to not being able to possess an automatic weapon and collectors or people who have basically just a desire to have one may have one assuming that they are not a felon and the other kinds of provisions that may occur in those kinds of exceptions. In this state, anyone can own or possess a firearm, pistol, rifle ....
- FISCHER: [indistinct] ... automatic. You mean I could possess an automatic weapon? Do I have to have a permit for that or ....
- PORTER: You get a permit through the Alcohol and Tobacco Tax federal people and your record is checked locally and the local law enforcement officials would sign \_\_\_\_\_ check. It is a degree of busy work on the front end but would prohibit no one, really, that could normally possess a firearm otherwise, from having ....
- FISCHER: Is there any restriction on the use of an automatic weapon aside from hunting or ... can I go shoot an automatic weapon anywhere I want to?
- PORTER: If you could lawfully, otherwise, shoot a weapon, you could shoot an automatic weapon as well.
- UNKNOWN: I agree.
- FISCHER: OK. Please be seated.
- PORTER: The law, here and in every other state that I'm aware of, would preclude someone who's intoxicated from possessing, at that time, a firearm. And in the state and in this municipality there is a law against carrying a concealed firearm unless you are a police officer. There is a bill of which you are probably aware in the legislature now that, if passed, would propose a permanent system of carrying a concealed weapon. The Alaska Chief of Police Association, I believe, wants \_\_\_\_\_ to go on record opposing that. This type of Constitutional amendment could well bring us that without the passage of this specific law. I'm not familiar with the ordinance in Palmer, but it would be interesting to put it in the perspective with State law which allows a person to carry a concealed weapon if he is leaving his home to drive out of the city for hunting purposes. If, in my understanding of the supremacy of law, State law provides that a person may do something, the municipality may not pass a law that restricts that privilege. A municipality may pass a law making a restriction of the State more restrictive but cannot counteract a provision of State law, if that addresses your general concern.

- FISCHER: Just a follow-up on that. State law authorizes an individual to carry a concealed weapon, whether it's a rifle or a pistol, in a vehicle on their way out.
- PORTER: That's correct.
- FISCHER: But the State law would not authorize, for instance, an individual to carry a concealed pistol just driving around own if there's a State law against that.
- PORTER: That's correct. There is a difference between the State and the Municipality of Anchorage in regards to concealed weapons. The State law disallows a person to carry a concealed weapon on his person. The Municipal carrying a concealed weapon ordinance states "on or about his person," so there is a difference and a higher restriction in the urban area of Anchorage, as opposed to other areas of the State once this particular municipality passed that kind of provision.
- FISCHER: What if Mr. Mooney was driving from his home to the sports arena or the Egan Center for a gun collecting show and he had a couple of suitcases inside his trunk or sitting on the front seat? Would that be a violation of municipal ordinance?
- PORTER: It would not be in the trunk. It would be debatable in the front seat.
- FISCHER: Mr. Mooney, could I ask you a question?
- SZYMANSKI: Yes.
- FISCHER: Do you find the existing municipal ordinance on that obnoxious to your interests and pursuits?
- SZYMANSKI: I'd like to pursue that a little bit, because I think the Chief is aware of some of the problems that do exist with the interpretation on what is or is not "on or about" a person. Traditionally (when I say traditional, I think back to when I grew up in Anchorage), we used to be able to carry your rifles anywhere you wanted: throw them in your trunk, you could do anything you wanted. Over a period of time we've become closer and closer and tighter and various things that have occurred. Dad used to keep a pistol underneath the seat of the car. Today if your officer was pulling a beer can or a bottle out from underneath the car and he pulled out a .38, would he be cited for a concealed weapon?
- PORTER: On a traffic stop, probably yes.
- SZYMANSKI: If the same occurrence occurred and were associated with a camper -- for some reason officer ends up in the camper, finds a rifle, pistol, whatever, would you find it would be basically the same application?

PORTER: You're asking for an interpretation that, to my knowledge, does not have an answer in case law. Perhaps Allen Bailey would be better equipped or have done some research, but in my interpretation, "on or about your person" means just that. You're driving in a camper that has access from driving position to the back. If it is a pick-up camper with a shell on it but no access, clearly anything in the back does not fall within that. But if it is open to access from the driver's compartment, I would say concealed within reach of that seat would be "on or about your person." If, as anyone probably should do, anyway, not have a gun in that position -- have it in a locker in the back, or something, you would not be in violation of "on or about your person."

SZYMANSKI: I guess that's obviously your opinion, but I mean I don't know any reason why I shouldn't be able to keep a .38 underneath the seat of my pickup, my car, or anything else. I don't know why I shouldn't be able to keep rifles, guns, pistols, anywhere else around in my camper any day of the week, 24 hours of the day, seven days a week. That's my personal responsibility. I assume responsibility for it. I guess I've progressively seen a change occur. That was acceptable in '45, '46, '47, '48, '49, and '50. As we started getting more and more stringent, things changed. It's like when we used to have pickups, before we had the fancy racks, we used to lay them in the back of the seat.

FISCHER: Do you remember what was going on in '46?

SZYMANSKI: Let me assure you, Senator, while I probably have not direct recall, I do remember (not in '46 -- '48 and '49) living in that way of life. I mean, my parents, my father, grandfather, so forth who came to this country in 1902, had a lot of respect for the country and the ability to do that. I think that they were responsible people -- I hope they were responsible. None of them were felons or anything, but I guess the problem I see is progressively -- and this is part of my argument in advancing the Constitutional amendment -- that as we progressively become more modern -- and what's coming with modern is restrictions, the ability the people used to have has been slowly progressively moved out. Is there anything on the books in the municipality (maybe we should wait for the attorney) that restricts handguns in hotels or motels? Currently?

PORTER: Not that I'm aware of -- the restriction of course unless you had it in an open holster on your hip or something getting it to the hotel room. It would be the same incongruity that exists in the case law on marijuana. Unless you built your home over an existing marijuana field, you had to violate the law to get it in there, but once you get it in there, it's legal. Perhaps the same analogy \_\_\_\_\_.

- SZYMANSKI: OK. And I think you said another interesting thing. The old hip law became, what used to be the old thing around here, you could go to the grocery store or you could go up and pick up stuff as you were getting ready to go out hunting, and you could carry a six gun on your side. Matter of fact you could even stop off at the bar and drink, years ago, with your six gun on. Nevada used to be a popular hangout on Gamble Street.
- PORTER: My memory starts in Anchorage in 1951. It's my understanding that basically the same laws that are in effect now were in effect then. What we're talking about is the policy before us.
- SZYMANSKI: I agree, and all I'm building with regard to -- and I think that you're attesting to it -- is that we have progressively developed more restrictive positions rather than looser positions, or at you've indicated, permissive statutory changes like this are not what people are moving to. They're moving more towards restrictive measures. I'll ask the attorney when he get's up here and I think he'll testify that if the ordinance was passed tomorrow to restrict handguns, rifles, from being possessed in motels, hotels, or any other public facility, there's nothing prohibiting it today.
- PORTER: Well, there's nothing to prohibit passing any number of kinds of laws ....
- SZYMANSKI: No, right. There's probably nothing to prohibit -- OK, we'll wait for him to get up here. But I appreciate your being honest with regard to restrictions. We are moving to a much more restrictive way of life in Anchorage if you look at handguns.
- FISCHER: Chief, since '51 has there been an increase in population of Anchorage?
- PORTER: Quite obviously, yes.
- FISCHER: Has there been an increase in crime?
- PORTER: Yes.
- FISCHER: Has there been an increase in crime involving weapons, firearms?

PORTER: Yes, there has. Rather than try to get into studies I don't remember the titles of, I would just say, in my opinion, that when you're talking about firearms, you're talking about something that has the potential for very terminal effects and the amount of incidents that have happened with people violating the law as regards carrying a concealed weapon on or about their person, and then having that weapon used after some degree of intoxication on their part, or just frustration and anger, is enough to convince me that I think the municipal ordinance that precludes that capability is very, very rational. I would, again, not support anything that could be used to diminish a municipality's ability to control a problem that it has in

SZYMANSKI: Let me ask one question before he does that. On the record, do you directly attribute accessibility to firearms, by the public, for the increase in the use of them in crimes?

PORTER: No, Mr. Szymanski, that isn't what I said at all.

SZYMANSKI: What is the correlation between the public's access to firearms and ....

\* \* \* \* END OF TAPE 1, SIDE 1 \* \* \* \*

PORTER: ... and his potential for long-lasting, serious bodily injury or death would be increased if, in a given situation, a person who was somewhat under the influence of intoxicating liquor or confronted by a traffic scene that made him angry, that the likelihood of a firearm coming into play would be precluded if there isn't a firearm to come into play. And if there was a law that allowed a firearm to be carried under those circumstances, I would guess an awful lot of people, just because of the independent thought of most people in the state have, would do something.

SZYMANSKI: And all I'd say is that you could apply that analogy to that point -- you could say it's the vehicle itself. If we had people all walking, we'd never have that problem either, but they're all implements by which we're existing in our society.

PORTER: I doubt very seriously if you could make a good case that we need a firearm to exist in Anchorage. Your vehicle, I think you could make a great case for it.

SZYMANSKI: You give up yours, I'll give up mine.

FISCHER: Thank you very much. Wayne Ross, you still want Al Bailey to go first?

ROSS: Yes, I'll wait.

FISCHER: All right. Allen.

ALLEN BAILEY: Thank you, Senator. I'm Allen Bailey. I'm the Anchorage Municipal Prosecutor.

I have read the Senate Joint Resolution Number 28, and while I am in no way in favor of restricting the Constitutional right of the people of the State of this country to bear arms, I feel that this is the wrong way to ensure that that is not restricted. The starting point for my discussion is that when you change the Constitution, the Constitution is supreme over any State or local statute or ordinance and once the Constitution is in print, as it were, the only arbiter of that Constitution is the Supreme Court of this State. In my opinion, this change would not clarify the meaning of this Constitutional provision but would change it entirely, because the basic precept by which the Supreme Court of Alaska construes criminal laws -- this would not be a criminal law but criminal laws dealing with firearms would have to be construed with relation to this provision -- the Court must construe them strictly in the defendant's favor. That's the prime idea in construing criminal laws in this country and in this State. That being the case, it is my opinion that enactment of this amendment to the Constitution would absolutely prohibit any legislative or local municipal legislative enactments which would restrict the possession of any firearms by any person so long as that person were willing to say, "I need this for my self defense, or defense of my home or property."

Now, presently, the main provisions in the State and the municipality against possessing weapons under various circumstances are possession by felons, possessions of prohibited weapons, possessions of concealed weapons and, in Anchorage, possession on licensed premises except by the owner or his agent or police officer. In my opinion, under this, you could not prohibit the possession of any firearm by any person who was willing to state that "I need this for my self defense." That includes sawed-off shotguns, sawed-off rifles, pistols with silencers, incendiary devices, automatic weapons, and while some people may feel that this is no problem, I feel that at least in this urban society here in Anchorage, it does a couple of things. Number one, it makes it more dangerous for our police officers to do their job safely because, as with many laws, the laws against carrying concealed weapons don't do away with carrying concealed weapons entirely or we wouldn't have any cases involving them in my office to prosecute, but they discourage the carrying of concealed weapons by people, most of whom want to obey the laws. A greater prevalence of concealed weapons on the part of people in general means there will be a greater percentage of drunks with concealed weapons, people under the influence of drugs, people who are otherwise engaged in unlawful activities -- all three of which situations lead to a higher likelihood of use of these weapons against police officers. I think that's offensive to our society.

The legislative bodies in Alaska, the State Legislature, the Municipal Assembly of Anchorage, have already demonstrated that it is important to this society to limit certain activities with weapons, specifically firearms. It's unlawful to have them concealed, under State law, on your person. It's unlawful in Anchorage to have them concealed on or about your person. It's unlawful to have them in a licensed premise in Anchorage. It's unlawful, under State and City law to have them in your possession if you're under the influence of drugs or narcotics. It's unlawful to have them in your possession if you're a convicted felon. I think these are valid, needed exercises of the police power of the State and the City and to lightly say that passage of this enactment will not do away with those laws, I don't think is accurate. It may be that something can be drafted to guarantee the rights of people to own firearms in some way. I think this particular enactment would simply do away with all restrictions on the ownership of firearms by anyone.

Now, I have heard it discussed some today that a few municipalities have legislated against the possession of handguns. I would emphasize that that's handguns only. Morton Grove, Illinois, is one; Evanston, Illinois; I think Skokie, Illinois. These are adjacent, suburban, conservative communities on the north side of one of our highest crime areas in the United States: Chicago. What they have done is not something I would foresee in the cards for Alaska or Anchorage.

I think that's all I have to say. My main point to emphasize is that in my opinion -- and I have been involved in a great deal of litigation involving the construction of criminal laws over the past ten years -- in my opinion, this provision would eliminate the ability of our State government to regulate the possession of firearms by any person -- in fact to do it.

SZYMANSKI:

First of all, my response to what you termed this to be -- your opinion. I tend to think you're an alarmist, by nature, by indicating that we're going to wipe off all the statutes in the State of Alaska relating to arms and what has been determined to be controlled purposes in the past, by Constitutional amendment, and to assume that what you're doing is you're telling me that you think the courts are going to interpret that law as broadly as it is. Obviously, that's an opinion. That's assuming that the courts have no rational sense about dealing with the issue of social control. I mean, I think you've gone a little far with regard to being an alarmist associated with what the intent is. But, going back to specifics of the language that's being presented to you, I would encourage you to draft me an acceptable one that would be Constitutionally permissible to allow the people who are there in defense of self, that you thought would be allowing their self protection: home, property, lawful hunting, recreational use, and so forth. I'd like to have a copy of that.

The problem I have, I guess, and I'd more or less ask a question of you. Your testimony, itself, I think, is excellent testimony to why we need the Constitutional clarification -- to give the ability to the courts to clarify what have been ongoing restrictions, and sequensive restrictions. It has not been a liberalizing or opening or freedom movement by this -- it's more been a restriction process over the time. Is that correct?

BAILEY: Well, I don't see it as that. I've only been involved in prosecution for the past ten years in Anchorage. I've lived here for a lot longer than that. The problem is that the code under which I prosecute now was invented in 1976 at unification. It was drafted by me based on existing State and California penal provisions with the consultation of people who had worked under the former City Code of Anchorage. We really didn't get into any new areas that I know of with the possible exception of the prohibition of firearms on licensed premises. All I need there to recall is stories I heard as a youth about gunfights at the Oasis and gunfights at the Nevada Club and gunfights at the Mambo. We just don't need those in this city today, I don't think.

SZYMANSKI: I guess the question I have, and it goes back to one of the points which are currently in the Municipal statutes, is that a person on their way going hunting -- that's interpretive. Once again, a guy's on his way to go hunting, stops off to talk with the boys at the local pub and he shoots somebody. He says, "I had the right to hold and bear that arm, right?" I guess it's interpretive again. It's the same way that you're turning around by interpreting the right to bear arms means that you'd never be able to make any restrictions on defense of self, meaning it's wide open. But that's not true. No more true that it is that everybody that walks up to you and says that "I'm going hunting tomorrow." You have to test that. The courts would test it, don't you agree?

BAILEY: Yes, I certainly agree, Representative Szymanski. My problem is that the language of this section is very clear. It's not convoluted at all and it would be difficult for me to conceive of even the Alaska Supreme Court construing it so as to permit something that I think it can't permit. Bear in mind, we're talking about a Court that placed under the right to privacy the right to possess something that it's illegal to get there. It's illegal to take marijuana into your home and how the Supreme Court of Alaska court arrive there is beyond me but that's the Court we're dealing with. In my attempts to construe this, I'm using the statutory construction arguments that I have read from that Court, time after time. They taught me lessons in how to construe various statutes that I thought meant one thing. I thought they were perfectly obvious.

SZYMANSKI: Do you see the intent behind the Constitutional provision?

BAILEY: I see the intent behind it and I see it as an admirable intent. I don't know that it's necessary to change what we have now to keep that intent because the Alaska Supreme Court is always the final arbiter of the State Constitution. I might be that the Alaska Supreme Court would say that the Morton Grove case is not our construction of our Constitution. We say that you cannot prohibit the possession of any class of weapons, for instance. That would certainly be something I would not be surprised at.

SZYMANSKI: Is it possible for the Municipality of Anchorage to pass an ordinance, under the current Constitutional language, to prohibit the use or carrying of firearms any more restrictive than they are now?

BAILEY: It would be possible to pass such an ordinance, absolutely prohibiting the possession of a weapon or firearm in Anchorage, but I suspect that it would be immediately be challenged by the first person charged under it and I would frankly expect it to be upheld by the Alaska Supreme Court -- the challenge, not the ordinance. I think that might be hard for the Municipality to do.

FISCHER: Allen, I notice in \_\_\_\_\_ Constitutional provisions of other states, that some states (at least one state -- I'm looking at Colorado), "... the right of no person to keep and bear arms in defense of his home, person, or property," which is sort of akin to what we're saying, "or in aid of a civil power when thereto legally summoned, shall be called into question. But nothing herein contained shall be construed to justify the practice of carrying concealed weapons." Similar language, Florida, "... except that manner of bearing arms may be regulated by law." Georgia: "... but the General Assembly shall have power to prescribe the manner in which arms may be borne." Idaho: "... but this provision shall not prevent the passage of laws to govern the carrying of weapons concealed with person, nor prevent passage of legislation providing minimum sentences...." and so on. So there's one state after another that makes reference to ability to control the carrying of concealed weapons and so on. Do you think this provision would be more acceptable if there were authority granted to regulate the use of the bearing of arms?

BAILEY: Senator Fischer, I think that would eliminate the objection I have to it. In other words, it would keep alive the ability of legislative bodies to regulate the manner in which these arms may be borne. Implied in that is that it may not eliminate the bearing of them but regulate how, where, and by whom they may be borne, because it is difficult to conceive of a situation in which society would want convicted felons bearing arms with any regularity, assuming they don't as it is, or carry concealed weapons.

FISCHER: Do you have anything else?

- SZYMANSKI: No. I would like to have you take a look at that Colorado provision because, as the Senator indicated, it's very similar to what we're looking at amending into ours, with the exception of some of the clarification on the end. Basically, I doubt whether or not if I went to Colorado I'd find out that they don't have any restrictions at all underneath that and if I could read that, the right of a person to keep and bear arms to defend his home, person, etc. It goes on, it's very similar to what we have here and I guess I just suggest that I doubt whether or not they're back to the old western days in Colorado completely because of that Constitutional provision. I suggest that we may not have the problems that you may have suggested in your testimony that we would have and probably good evidence would be taking a look at the State of Colorado. I'd appreciate any suggestions and clarification that would be to the amendment.
- FISCHER: We have this memo from the AG's office and there's no need for Al to get involved in the Mississippi, Montana, New Mexico, Oklahoma. A lot of the western states have this kind of restriction and I'm just amazed that whoever drafted this proposal didn't include it because, by implication, as both the Chief and Allen Bailey point out, it stands out even more by implication when compared to the others, that the intent here is to authorize the carrying of concealed weapons, which I hope is not ... Of course, you we're earlier arguing that in the good old days we could do it.
- SZYMANSKI: What you term as concealed weapons -- when I say concealed weapons, even in the good old days you didn't run around with guns in your pocket.
- FISCHER: Some of us did. Thank you very much, Allen.
- BAILEY: Thank you.
- FISCHER: Wayne, are you willing to do it?
- WAYNE ROSS: My name is Wayne Ross. I'm a resident of Anchorage, former Assistant Attorney General, and Superior Court Master Trustee. I've been the private practice of law since 1973. I'm \_\_\_\_\_ member and Past President of Alaskan Gun Collectors Association and now Secretary and Vice President of Alaska State Rifle and Pistol Association. I'm a Director, along with Ted Stevens, Joe \_\_\_\_\_, and Ken Fanning, of the National Rifle Association. I'm a member of the Alaska Peace Officers Association. Don't hold it against me but I'm also a Republican.
- FISCHER: Some of my best friends are Republican.
- ROSS: You wouldn't want your daughter to marry one though.
- FISCHER: One of them did.

ROSS: This whole thing, I think, came about as a result of perhaps something I was involved in. In about 1983, I was approached by a man who lived over in the Panoramic View Apartments. He had gotten a letter from his landlord wherein his landlord advised all the tenants that after the first of May they would no longer be able to have firearms or handguns in their apartment buildings. I've, of course, lived here sixteen years and I'm familiar with what's going on Outside with regard to the controversy over handguns and other firearms, the attempts to ban firearms, and I was of course quite shocked that this type of thing could happen in the State of Alaska. Senator Fischer, you stated that we don't think we have a problem. I didn't feel we had a problem up here. I always said that I knew what a conservative and a liberal outside Alaska was and I would tell my friends Outside that conservative in the State of Alaska is someone who carried a .41, .44, .45, and a liberal was someone who carried under .41 calibre gun. In point of fact, I didn't think we had a gun problem at all. I felt that the Landlord/Tenant Act as it was enacted by the State of Alaska, and Article 19 of the Alaska Constitution would preclude this landlord from taking this action and I got in touch with the Attorney General ....

FISCHER: What article of the Constitution?

ROSS: Article 19, I believe. That's the right to keep and bear arms, is it not? Section 19, Article 1, I'm sorry. I believed that would take care of the problem. So, I got in touch with the State Legislature and with the Attorney General's office. I felt that in the State of Alaska we could certainly get an Attorney General's opinion upholding the right to keep and bear arms under the Constitution. After all, this is the State of Alaska. There's never been really any question that we as citizens would have the right to keep and bear arms.

Unfortunately, the Attorney General's office sent a letter to the Honorable Pat Rodey and the Honorable Charlie Bussell, dated April 13, 1983, signed by one Joseph Geldhoff, an Assistant Attorney General for the State of Alaska, and in pertinent part, page 2 of that letter, Mr. Geldhoff says, "The modern, judicial view has increasingly found that the guaranteed right to keep and bear arms is not an individually protected right, but rather a collective right which allows the people of the various states to serve in a militia. The contemporary, judicial view in the great majority of states interprets the Constitutional language as posing no limitations on the legislatures power to regulate the ownership or control of firearms."

Mr. Geldhoff then went on to say that a landlord could do that under the Constitution of the State of Alaska. Mr. Geldhoff indicated that there was no individual right in his interpretation. If it went to court there would be no individual right to keep and bear arms in the State of Alaska.

ROSS (cont.): I couldn't believe that this came out of the Attorney General's office. I called Mr. Geldhoff. I had sent him quite a bit of background material on it. I called Mr. Geldhoff and Mr. Geldhoff says, "Yes, that's my opinion and the Attorney General backs me up on it. What we need in the State of Alaska -- I'm not against the individual right to keep and bear arms, but what we need is a clarification of the Constitution. It should be made clear that we're not talking about the militia; we're talking about individual rights."

Senator Rodey was informed of these matters, had received a copy of the Attorney General's opinion, and I think that that's what led Senator Rodey to file this bill. I like the wording of the Second Amendment of the United States and I like the wording of the Constitution of the State of Alaska and I think that any Constitutional scholar who attempts to learn anything about how this wording came about looks into the history of the United States, looks into how the Constitution was drawn, what the founding fathers tell you, could easily find out that the Second Amendment and Section 19 of the Alaska Constitution clearly intended individual right to keep and bear arms. Unfortunately, we seem to be getting more and more people who either don't bother or misinterpret what took place, and as a result, we are getting more and more opinions, such as this one, in effect which if they are enforced along the lines of this opinion would preclude the average law-abiding citizen the individual right to bear arms.

I look upon this as perhaps not necessary at this time. I think it would be a lot easier if we voted out the people who worked in the Attorney General's office and got some Constitutional scholars in there. However, this proposal is more a preventive measure. In other words, if the people that are in the Attorney General's office now do not know what the people of the State of Alaska want, then perhaps we ought to spoon feed them a bit.

I'd like to read to you a quote from Theodore Roosevelt that I thought was really quite appropriate. I came across this last night. This kind of would be my position on the matter. President Roosevelt said, "I deny that the American people have surrendered to any set of men, no matter what their position or their character, the final right to determine those fundamental questions upon which free self government ultimately depends. The people themselves must be the ultimate makers of their own constitution and where their agents differ in their interpretations of the constitution, the people themselves should be given the chance, after full and deliberate judgement, authoritatively to settle what interpretation is that their representatives shall thereafter adopt as binding."

ROSS (cont.): Now, in point of fact, we have a situation here, I think, where the people's representative, Mr. Geldhoff, and Attorney General Gorsuch, are interpreting the Constitution contrary to what I think the vast majority of Alaskans believe their Constitution says. President Roosevelt indicated in that situation the people should say what they mean by their constitution. This is a perfect method for the people to do that.

I disagree with Mr. Bailey that the Constitution is what the Supreme Court says it is. I think the Constitution is established by the people and the Constitution should be interpreted by the people. The only problem we have is what's the best way to get the people to interpret what their constitution says. I think this is a real good way to do it. If the people of the State of Alaska, as I believe, really believe that there's an individual right to keep and bear arms, then they're going to vote for this proposal. If they somehow have changed that much in the last few years, if they go along with Mr. Geldhoff, they're not going to vote for it. If you don't bring it out of the Legislature, if you don't give the people a chance at all (and I think the people should be given a chance to say what their Constitution says), and we ought not to wait until our Supreme Court interprets the present Section 19 to something that we don't want before we have to act.

FISCHER: Thank you. Are there any questions? Everyone keeps quoting Geldhoff, April 13. I have a letter of June 3, 1983, I got from Joe, addressed to Mr. Craig Parker from Norman Gorsuch. Are you familiar with that letter?

ROSS: I don't have a copy of that, I don't believe.

FISCHER: [inaudible] ... the letter wasn't sent.

ROSS: Wasn't sent? Craig Parker's the President of the Alaska State Rifle and Pistol Association, I'm the Vice President.

FISCHER: Since I have it in my hot little hand here, let me ....

ROSS: I think the reason behind that, if I could tell you, that was real close to the time that they were going to have those hearings on the confirmation of Mr. Gorsuch. I don't know what the letter says ....

FISCHER: In fact, there was a big to-do about that ....

ROSS: Yeah, and I think Mr. Gorsuch was a little concerned at that.

FISCHER: Actually, in this letter, since I have it and it's public record since I have it, he says that he "wants you and members of your organization to know that I am not against individual gun ownership. I grew up on a farm in North Carolina and spent many days [inaudible]. As a long time resident of the state I believe ownership of guns is both necessary and desirable." Then he gets into the Panoramic View, which is really what I want to get to, and points out that the Panoramic View issue was a question between two private parties: a question whether one private parties can limit possession of firearms by another and he suggests that an amendment to the Alaska Landlord/Tenant Act would prevent any landlord from including any such provision in a lease agreement. Even though some people feel that we should amend the Constitution when somebody's concerned about something, I feel that legislative remedies should be tried before Constitutional remedies if there's a problem that we need to avoid. If the problem is one of the threat of private parties precluding other private parties from having guns, that can be dealt with legislatively.

ROSS: That's not the only problem, Senator.

FISCHER: I'm not finished. If the concern is about the Municipality of Anchorage going beyond State law and saying that you cannot carry a concealed weapon on or about your person and you object to the "about your person" the State Legislature could, by law, prevent the Municipality from that kind of restriction so that I could carry a gun under my seat as Mike describes. What is it that you feel we need to do that cannot be addressed by State law?

ROSS: First of all, there are three branches of government. Representative Szymanski has, I think, demonstrated a little earlier by reading a copy of a letter that the Governor wrote, where the Legislature tried to remedy a problem, the Governor put the veto on it. We have the third branch of government, the Judiciary, and the Judiciary interpreted an Anchorage ordinance in a case decided only a month ago, to hold that despite the fact that you gentlemen passed a law regarding concealed weapons on the person, and despite the fact that your minutes show that it was not your intention to prohibit a firearm in the glove compartment, the State courts have interpreted the Anchorage ordinance to prohibit a person from having a loaded weapon about their person. So what we have is three branches of government, in effect, taking ...

- FISCHER: Excuse me. I know where you're going, but that's aside from the point that I was addressing. I was asking you whether we cannot deal with an issue like that by statute, because the court ruled in the absence of State law limiting the municipality's right to pass an ordinance prohibiting a concealed weapon about the person, but the Legislature could very easily, if that is your concern. In other words, the court will interpret in the absence of State law, or if State law violates the Constitution, but I don't think this is the question here.
- ROSS: Theoretically, you could do that. Every one of your decisions, of course, is reviewable by the court and the court interprets whether the Legislature's decisions are correct. Every one of your decisions is, in effect, reviewable by the Governor as to whether or not he wants to veto it. We've had attempts for the last year to try to get some of these problems remedied. The judiciary has interpreted the Anchorage ordinance and the Legislature hasn't done anything about it yet. Of course, it only came out a year ago. You had an interpretation about what the concealed weapons law was in your minutes when you enacted that legislature several years ago, and it was clearly your intention at that time not to prohibit people's                     . And yet Anchorage ordinance went into effect and the Legislature hasn't really done anything about it and I don't know if it's the Legislature's intentions. I feel probably more comfortable with the Legislature doing something than I do with either the Executive Branch as it's presently constituted, or with the Judicial Branch, even though I work with the Judicial Branch. But I feel even more comfortable with having the people decide than I do with the Legislative Branch.
- FISCHER: Let me ask you another question. Were you involved in drafting this amendment?
- ROSS: No, I was not.
- FISCHER: You heard me read the provisions of other states ...
- ROSS: Yes.
- FISCHER: ... that have language like this, but in most cases state that this in no way limits the ability to prohibit carrying of concealed weapons and language to that effect.

ROSS: That would be a dangerous practice in my opinion if you were to put that in and I'll tell you why. There's a rule of law that says that if you get into the exceptions, then those are the only exceptions that you can have. I think that Representative Szymanski's interpretation is correct and other courts have stated that even with provisions similar to this it doesn't preclude reasonable regulations on the method of carrying. But if you say in there this doesn't preclude laws being enacted to prohibit a person from carrying concealed weapons then, in point of fact, you're precluding any other type of regulations. We have laws that prohibit a felon from having a weapon, for example, in the State of Alaska. We, of course, have federal laws to that effect, too, but if you put in the exception and you say, "Well, we'll still allow the Legislature to enact to conceal weapons laws," then you're limiting the exceptions that you have to that and I think that would be a dangerous practice. Now, Mr. Bailey brought out one thing else and that was that if you interpret this to allow people to have the right to keep and bear arms with no restrictions on it, the felons could have firearms and the automatic weapons and silencers and everything, you forget that citizens that we have in this country are bound not only by state law, but federal law, and federal law prohibits all of these things.

FISCHER: Do you oppose state and local restrictions on the carrying of concealed weapons?

ROSS: Personally, yes. It depends on the regulations, though. For example, I don't oppose restrictions that prohibit minors from carrying weapons. I don't oppose restrictions that prohibit felons from carrying weapons. I don't oppose incompetents. I could go through a list of people that I don't oppose. I do oppose restrictions on the law-abiding citizen, the responsible person, the person who perhaps has some training in the use of weapons, from carrying those weapons. When my wife goes out at night, for example, she goes to the school board meeting, I've always been a little less concerned about her safety because I knew that there was a weapon in the glove compartment. Under the court of appeals laws now, it can't be in there loaded, and if she was run off the road by someone like the type of characters we've been reading in the papers all the time, I don't know what she would do.

FISCHER: I'm just trying to figure out where the lines are being drawn in terms of your statement. You say people who are trained in the use and so on and so forth. That has an implication that someone makes a judgement. Are you talking about a permit system?

ROSS: Representative Liska's bill, I think, is an example of a good intention law, very poorly drafted. I support the concept of a permit system. The criminal element, of course, is going to carry a weapon anyway whether there's a law against it or not. The criminal element will carry a weapon into a bar and have alcohol whether there's a law against it or not. It's the honest, law-abiding citizen that won't do these things. I think we ought to have at least the opportunity to carry a weapon. If we carry large sums of money or something else there ought to be some provision that would allow us to do it.

FISCHER: [inaudible] The Alaska provision dealing with the right to bear arms is similar to the U.S. Constitution. Has there been any effort on the part of NRA to adopt this kind of language at the federal level through congressional enactment or an amendment to the U.S. Constitution.

ROSS: To my knowledge, no. The only efforts the NRA has been in is in defending against the various lawsuits that have been involved. The problem, of course, being with the U.S. Congress is that we have perhaps more people who are urbanized and don't recognize the need to have a firearm like we do in Alaska. I would see that Alaska would eventually start enacting more and more legislation that way, also. I see what Representative Szymanski is calling the whittling away of our rights and I think now is the time to act to prevent that if at all possible. And then the only other way it could be changed is if I suddenly became a minority sometime in the future and people felt that they should not have the right to have guns. Then they could, of course, change the Constitution. But to have rights vary just on the whim of an election, we happen to have less Vic Fischers and more anti-gun people elected in the Legislature in one particular term.

\* \* \* \* \* END OF TAPE 1, SIDE 2 \* \* \* \* \*

ROSS: ... years ago, that the Attorney General's office of the State of Alaska would come out with an opinion that says the Alaska Constitution drafted only 25 years ago by hunters, fisherman, outdoorsmen would not give the individual right to keep and bear arms. I wouldn't believe it either.

FISCHER: So far as I'm concerned, I don't think ... they haven't yet come out with that so ...

SZYMANSKI: While I agree with you, Senator, the likelihood of legislation being drafted and passing both bodies successfully prohibiting the right to bear arms both privately and for use in hunting and so forth is highly unlikely, there's still that other body that makes law through interpretive process that can judge sub-laws, the laws of this community, the laws of other communities, that needs that clarification desperately, before we have to move into an action of reacting.

FISCHER: I don't want to argue with that point again. We've been on that several times. My response to that is simply the Legislature can deal with that in the absence of a Constitutional amendment. Anyway, we have several more people in this hearing.

ROSS: Thank you very much for the opportunity to speak.

FISCHER: Thank you very much, Wayne. This hearing was to last to 3:00 and I have another meeting to go to in about 10 minutes. Mike Morey.

MIKE MOREY: My name is Mike Morey. I've been a resident of Anchorage for about eight years now and I've come to testify in defense of the freedom of carrying concealed weapons in the State of Alaska for the purposes, I would suppose, mainly of self defense. Some of the things I've heard here today are that the potentiality of a gun or concealed weapon doing harm to another person and I'm quite divided over statements like that because I don't believe a gun or any type of weapon has any potential of its own other than through the person that is handling that weapon. The states that have enacted laws against citizens carrying weapons, I certainly believe, are in the wrong because I believe the reason those states have their crime problems to begin with is certainly not due to the law-abiding citizen and the only thing those laws have done is taken away the right of the law-abiding citizens to defend themselves. I know you're in a rush so I'll try to make it short. The only other point I would have is that if it were to be a right of law-abiding citizens (and I specify law-abiding because the criminal essence that causes the problem, not the law-abiding citizens) that it should almost be a requirement that weapons in the State of Alaska that are not being used at that time for hunting purposes, should be concealed. Due to our dust and extreme weather condition your guns and knives can rust up very easily and be loaded down with dust just from driving on the dirt roads around town, here, and that if they were not concealed they're not always able to be used. They can foul up due to rust and dust around town. Weather conditions are quite extreme here. If I were to have one lying on the seat of a car, my car gets loaded up with dust constantly. The glove compartment would be the ideal place for it. When I get dirty, it's the outside of my clothes that get dirty, not the inside. I've just come today to speak in defense of the right of law-abiding citizens to be able to possess and legally carry concealable weapons.

FISCHER: Thank you very much, Mike. Next we have Lonnie Halar.

HALAR: I didn't wish to testify.

FISCHER: I'm sorry, you're both observers. Is there anyone else here who wants to add anything? Everyone else has spoken.

ROSS: If I could just add one comment, Senator. We are lucky to have a police chief like we do. If you may recall several years ago there was a chance we were going to get a police chief from New York and if we had gotten a police chief from New York with the Sullivan Law we might have had even more problems in Anchorage than we do on the present chief. I'd like to head off those problems.

FISCHER: Thank you, Wayne. I agree with you; we have a good chief. Thank you all very much for your testimony. We'll continue this for the Juneau scene.

# ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



## MEMORANDUM

TO: Senate State Affairs Committee  
FROM: Senate State Affairs Committee Staff  
RE: CSSJR 28 right to bear arms  
DATE: May 3, 1984

The proposed CS for SJR 28 does not change the intent of the original resolution.

The CS clarifies that the right to bear arms is an individual right, but still allows the carrying of arms to be regulated by law.

The CS differs from the original version of the resolution in the language used to express that the individual may bear arms for lawful purposes. The language in the two versions are as follows:

CSSJR 28 lines 15-16: "but the manner of bearing arms may be regulated by law."

SJR 28 lines 14-16: "for defense of self, home, property, or for other lawful hunting and recreational use, or for other lawful purposes shall not be infringed."

# MEMORANDUM

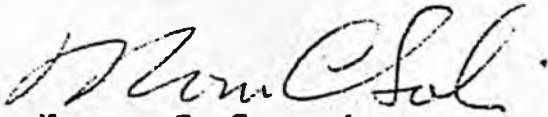
State of Alaska

TO: Honorable William Sheffield  
Governor

DATE: May 31, 1983

FILE NO: 356-444-33

TELEPHONE NO: 465-3600

FROM:   
Norman C. Gorsuch  
Attorney General

SUBJECT: Sequence of Events  
Concerning Opinion  
Dealing With Gun  
Control

1. Representative Bussell asked this office for an Attorney General's opinion on February 3, 1983. (Copy attached.) On April 13, 1983 this office issued an opinion to Senator Rodey and Representative Bussell. (Copy attached.)

2. After Mr. Bussell received the opinion Mr. Geldhof met with him and drafted a suggested amendment to the Landlord-Tenant Act to accomplish the goals that he sought. (Copy attached.)

3. Prior to issuing the opinion, I returned a telephone call to Mr. Ross at which time he offered to send us materials to help us research the law in this area. We acknowledged our receipt and review of those materials and the return of them to Mr. Ross along with a copy of the opinion in a letter also dated April 13, 1983. (Copy attached.)

4. On April 14, 1983 Senator Pat Rodey furnished us with copy of a brief memorandum by Billy Berrier of the Legislative Affairs Agency, dated March 8, 1983, in which Mr. Berrier also agreed with our position. (Copy attached.)

5. Upon receipt of a copy of the opinion, Mr. Ross sent a letter dated April 29, 1983 to Tom Fink in which he urged that I not be confirmed. The letter copied Pat Rodey and Charlie Bussell. (Copy attached.)

6. Upon being furnished a copy of that letter, I sent a letter to Mr. Ross expressing clearly our opinion that he is simply wrong. I reminded him that his own attorneys, Bensen, Kate and Hardy, from whom he requested an opinion on how his position could be sustained supported our view and stated, "I emphatically do not entertain great hopes for any of these theories."