

1967-68

HOUSE JUDICIARY COMMITTEE

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1967

REPORTS,
MEMOS, ETC.

3/16/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 47

This bill protects liquor licensees in their reliance on drivers' licenses as evidence of the age of customers, and removes from them the burden of "knowing" at their peril whether a customer is really at least 21 years old. The bill is contingent upon the passage of House Bill No. 31, which requires that drivers' licenses be encased in plastic and contain a picture of the driver.

Tom Fink, Chairman

3/16/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 58

Regarding admission to the Alaska Bar, present law limits the application of AS 08.08.130(6) to persons employed by a law firm or the state or federal government. This bill removes that restriction while retaining the requirement of three consecutive years of work of a legal nature in Alaska.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 64

This bill facilitates borough financing on a service area basis by putting the credit of the entire borough behind the financing needed for a function performed in a service area only. However, before the credit of the entire borough is pledged the obligation must be approved by the qualified voters throughout the borough.

Tom Fink, Chairman

3/10/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 105
amended by the House Judiciary Committee

In an attempt to encourage prompt and reasonable settlements and to compensate an injured party for his loss of capital and further injury while awaiting the trial, this bill provides for the addition of interest to an award of damages for the time prior to judgment. No interest will be allowed when there is a bona fide offer of settlement made within 30 days of the date the cause of action arose if the amount of money offered at least equals the damages awarded. And if such an offer is made later than 30 days after the cause of action arose, interest may be allowed for the period prior to the offer.

Tom Fink, Chairman

3/18/61

art

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 112

This bill generally increases the efficiency of state bonding. It adds redemption premiums to the state's pledge of full faith, credit and resources; removes any question of the legality of the type of bond sold after the earthquake in 1964; permits the spreading of payment over a period greater than 30 years; assures nationwide public notice of the sale of state bonds, thereby increasing the market for them; permits facsimile signatures on state bonds and on bonds issued by political subdivisions of the state; permits a "designee in the department" of a member of the state bond committee to act in the place of the member; and permits the state bond committee to designate one of its members to act when necessary to effectuate the committee's duties if that is not inconsistent with other law.

Tom Fink, Chairman

3/15/67

JUDICIARY COMMITTEE REPORT

on the

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 140

This committee substitute eliminates one basis for admission to the Alaska Bar. The subsection being repealed states in essence, that an applicant is eligible for admission if he has passed a bar examination in another state, is a member in good standing of the bar of that state, has been a resident of Alaska for at least three years, has been employed in Alaska in work of a legal nature for at least three years and the Supreme Court determines that it is in the best interest of those served by the legal profession that he be admitted.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 160

This bill establishes a new time limitation for certain actions, i.e. those brought against the responsible architect, builder or similar person, based on a defect in the design, construction, etc. of an improvement to real property and those based on an injury caused by that defect. Whether the case is based on the defect itself or on the resulting injury the time begins running upon "substantial completion" of the improvement; consequently this bill limits not only the bringing of the cause of action, but in effect prevents the cause of action from arising when an injury occurs after the time limitation has expired. An action based on a defect not discovered until after the time limitation has expired would likewise be precluded.

However, this limitation does not affect the bringing of an action against the person in possession or control of the improvement (e.g., as an owner or tenant).

Tom Fink
Chairman

3/29/60

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 165

This bill establishes an additional method of handling some prisoners. In certain cases the commissioner of the Department of Health and Welfare may direct that a prisoner be permitted to continue in his regular employment, or may authorize him to secure employment, unless the court at the time of sentencing has prohibited work furloughs for that prisoner. The earnings of the prisoner shall be collected by the commissioner for payment of support of the prisoner's dependents, if any, and for payment of the prisoner's board and personal expenses inside and outside the prison facility. The balance shall be paid to the prisoner at the time of his discharge.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 175
amended by the House Judiciary Committee

This bill requires the Department of Labor to follow the same procedures as all other encumbrancers when placing a lien on motor vehicles as a means of securing payment under the Employment Security Act. Either the instrument creating the lien shall be accompanied by the vehicle's certificate of title or a new certificate shall be issued bearing evidence of the encumbrance.

Tom Fink, Chairman

3/28/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 176

This bill simply prohibits the use of the streets and public thoroughfares of a city for the business of furnishing water by tank, wagon or other conveyance unless a franchise has been granted by the city council. The council is given the authority to regulate water distribution.

Tom Fink, Chairman

3/29/6

JUDICIARY COMMITTEE REPORT
ON
CS FOR HOUSE BILL NO. 178

This bill establishes the concept that a person who operates a motor vehicle upon the public highways has "impliedly consented" to chemical tests of his blood, breath or urine for determining the alcohol content of his blood if he is arrested for an offense arising out of acts alleged to have been committed while he was driving while under the influence of intoxicating liquor. A standard for determining whether a person is "under the influence" is also established.

Tom Fink, Chairman

3/11/67

JUDICIARY COMMITTEE REPORT

ON

**HOUSE BILL NO. 201
amended by the House Judiciary Committee**

This bill requires that agencies providing child placement and counseling services be licensed, and thereby assures the public that persons primarily engaged in offering these services possess a certain degree of training and competence and adhere to certain standards.

Tom Fink, Chairman

3/27/67

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 207

This bill helps protect freedom of religion and the right to live in accordance with one's religion so long as others are not endangered. A schoolchild whose parents, on the grounds of religious principles, object to the physical examination or immunization of him may be examined or immunized only under certain circumstances.

Tom Pink, Chairman

3/9/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 211

This bill is very similar to House Bill No. 90 which recently passed the House of Representatives in the State of Washington. It protects news reporters and elected public officials from being compelled to disclose their sources of information, except when there is a judicial determination by the superior or supreme court that withholding testimony on the source of information would be contrary to the public interest or would result in a miscarriage of justice or the denial of a fair trial to those who challenge this privilege. The bill contains certain limitations on the privilege, recognizing the need to protect individual rights while relieving reporters and public officials from unnecessary pressures to disclose their sources of information.

Tom Fink, Chairman

3/20/67

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 221

This bill applies to colleges and universities the prohibition against the location of liquor outlets within 200 feet of school grounds and churches. In areas outside of incorporated cities it leaves to the persons residing within a one mile radius of a proposed outlet (i.e., the persons most directly affected) the determination, provided other requirements of law are met, of whether a liquor license should be issued. (See AS 94.10.440) Other changes proposed by the bill make the measurement of the 200 feet more certain.

Tom Fink, Chairman

3/9/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 230

This is one of several bills enhancing the Alaska judiciary. It requires that a district judge be licensed to practice law in Alaska, rather than just in any one of the United States. Through committee amendment, it increases his Alaska residence requirement from 90 days to one year, but to provide for filling vacancies when no person with these qualifications is available the position of acting district judge is created, for which there is no residence or law-practice requirement. The term of an acting district judge is limited to twelve months.

In addition, this bill changes the method of selection of district judges and magistrates. By requiring the judicial council to nominate two or more persons for the selection of one by the governor, the presiding judge of the superior court in each judicial district is relieved of the obligation to make the appointments.

Tom Fink, Chairman

3/10/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 236

This bill requires that all automobile insurance policies sold in this state provide the minimum coverage specified in AS 28.23.440(b)(2), and, unless waived as provided in AS 28.23.440(b)(3), contain an uninsured motorist clause. Legislation enacted in 1966, seeking to accomplish this end, was not a general provision and therefore has only limited application.

Tom Pink, Chairman

3/21/67

JUDICIARY COMMITTEE REPORT ON CS FOR HB 247

The basic change in existing law made by this bill is the removal of the concept of "fault" (for a divorce) from consideration in the award of child custody. "Fault" for the divorce is not necessarily relevant to the question of which parent could best take care of the child, particularly in Alaska where the far greater percentage of divorces are granted on the grounds of "incompatibility." In this bill the court is given guidelines to assist it in awarding child custody. The bill also makes both parents responsible for the future welfare of the child, rather than just requiring payments from "the party in fault" as under present law. In this connection payments made by the parent not having custody would go into a trust fund for the child when the parent having custody remarries, unless it is manifest that the child's present welfare requires that the payments to the parent having custody continue.

The bill also abolishes the concept of "fault" with regard to alimony, and requires that an award of alimony to either party be based on a consideration of need, ability to earn a living (as affected by age or physical condition) and other appropriate factors. It is not, however, the intent to require divorced mothers who are awarded custody of the child to place the child in a nursery so the mother can go out and work to support herself. (She will already be receiving support payment for the child.)

This is one of the factors to be considered by the court. Distribution of property is also changed by the bill so that only property acquired during the marriage can be awarded. The parties would still be free, of course, to make some other contractual arrangement.

In addition, the bill extends to both parties the courtesy presently extended only to the wife by requiring her to deliver to the

husband his personal property which is in her possession or control at the time of giving the judgment.

Tom Fink, chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 252 amended

This bill raises the fees for set or stake gill net licenses and makes special provision for persons whose gross income for the previous calendar year was less than \$3,600.

Tom Flak, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 253 amended

This bill raises the fees for drift gill net licenses and makes special provision for persons whose gross income for the previous calendar year was less than \$3,600.

Tom Fink, Chairman

3-122

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 255

This bill provides for the enforcement of municipal liquor-control ordinances by applying the same sanctions that are available for enforcement of state liquor laws.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 256

Under present law a person can be convicted of reckless driving or of driving under the influence of intoxicating liquor only if he is driving "upon a public street or highway." This bill removes that condition, so that driving in a parking lot or other place likely to endanger the public would be covered.

Tom Fink, Chairman

3/17/67

JUDICIARY COMMITTEE REPORT

**ON
HOUSE BILL NO. 266**

This bill alleviates the problem faced by some of the smaller cities when conventions are held there. It is a general grant of permission to holders of a "club license" to serve alcoholic beverages to nonmember conventioners when, due to a convention, the regular dispensing facilities are inadequate, as certified by the Alcoholic Beverage Control Board.

Tom Fink, Chairman

3/23/67

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 286

This bill applies the same sanctions to violations of municipal liquor control ordinances as to violations of state liquor control statutes. It also makes clear that for a second or third violation to bring a more severe penalty the violations need not all be of the same ordinance or statute.

Tom Fink, Chairman

Ark

3/28/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 287

The basic change proposed by this bill is the placing of the incorporation and dissolution of cities in the hands of the Local Boundary Commission instead of the courts. It also prohibits the incorporation of third and fourth class cities within an organized borough, and adds a new basis for the dissolution of home rule and general law cities in an organized borough, i.e. the consent of the borough to assume the city's rights, powers, duties, assets and liabilities.

Tom Fink, Chairman

3/27/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 290

This bill gives the Alaska Transportation Commission the authority to suspend a rate change by a motor freight carrier for up to 180 days, pending a hearing and decision on the reasonableness of the change. Under present law the commission has the authority to reject a change, but pending its decision the change can remain in effect.

Tom Pink, Chairman

3/30/61

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 300

This bill seeks to protect children against neglect or abuse by requiring rather than just permitting medical personnel, school teachers and social workers to report to the Department of Health and Welfare cases when it is believed the child suffered physical injury due to abuse, neglect or starvation. The bill also requires that these reports be in writing and that the department forward copies to the largest hospital in the vicinity where the injury is discovered so that medical personnel, probation officers and agencies offering child protective services can review them.

Tom Fink, Chairman

4/1/67

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 322

This Bill modifies the court rules providing for a stay of imprisonment. If the defendant is admitted to bail the sentence of imprisonment will be stayed pending an appeal. However, if he is not admitted to bail a facility may be designated where he will be detained pending appeal or admission to bail.

Tom Fink, Chairman

3/11/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 13

This bill simply assures blind persons that they may take their guide dogs with them, free of charge, into public facilities notwithstanding the possible prohibition in local ordinances or "company policy".

Tom Fink, Chairman

3/30/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 45

This bill authorizes the director of the Division of Lands, with the approval of the commissioner of the Department of Natural Resources, to grant state land to a corporation for construction of a railroad and establishes the procedure for doing so. It also provides that the land reverts in the state under certain circumstances.

Tom Fink, Chairman

art 3/18/16

JUDICIARY COMMITTEE REPORT

ON

HCS FOR SENATE BILL NO. 51 amended

This bill helps preserve the state's wildlife resources by requiring non-residents, hunting for certain species of animals, to be accompanied by a guide licensed in this state.

3/22/67

JUDICIARY COMMITTEE REPORT

ON

CS FOR SENATE BILL NO. 74 am

This bill adds to the regular penalties of fine and imprisonment the suspension of the driver's license of a person convicted more than once of driving a vehicle without the owner's consent.

Tom Fink, Chairman

3/10/67

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 90 amended

This bill provides for greater efficiency in the Department of Highways by allowing a designee of the commissioner, within the department, to sign an order for a declaration of taking in eminent domain proceedings. It also requires rather than just permits the department to pay into court the reasonable value of the property taken.

Tom Fink, Chairman

3/19/67

JUDICIARY COMMITTEE REPORT

on

CS FOR SENATE BILL NO. 99

Prompted by growing concern over the hazards of ski areas and a recent court case in Washington seeking to hold a ski tow operation or owner to the standard of care of a common carrier, this bill simply clarifies the status and liability of such persons. It also protects them from regulation as a common carrier.

Tom Fink, Chairman

3/27/6

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 102

Under present law a bank may disclose its records pertaining to customers and depositors in only four situations. This bill adds one more, so that a bank, lending institution, credit bureau or retail outlet extending credit to an individual may obtain information from the individual's own bank regarding his credit rating. This bill does not permit his bank to disclose his exact deposit balance.

Tom Pink, Chairman

3/16/61

JUDICIARY COMMITTEE REPORT

on

SENATE BILL NO. 114

This bill simply applies to veterans of the Viet Nam war the same employment-preference benefits presently applied to veterans of the two world wars and the Korean War.

Tom Fink, Chairman

3/19/67

HOUSE JUDICIARY COMMITTEE REPORT

ON

CS FOR SB 142

This bill attempts to codify the law with respect to the burden of proof in medical and dental malpractice actions and counter the 1964 case of Patrick v. Sedwick, Alaska, 391, P. 2d 453, the effect of which is said to be an intolerable rule of law resulting in astronomically high malpractice insurance rates. Basically the bill requires that, in these actions, negligence be proved and not presumed.

Tom Fink, Chairman

3/23/67

JUDICIARY COMMITTEE REPORT

on

HOUSE COMMITTEE SUBSTITUTE

for

SENATE BILL NO. 145

This bill brings into conformity with the Alaska Uniform Commercial Code the language of the provision prohibiting removal from the state of an encumbered motor vehicle. Under AS 45.05.690 to AS 45.05.794 a secured transaction is one which, regardless of form, is intended to create a security interest in personal property or fixtures. See AS 45.05.692(a). The common terms "chattel mortgage" and "conditional sales contract" are included in the term "security interest".

Tom Fink, Chairman

3/27/67

JUDICIARY COMMITTEE REPORT

ON

HCS FOR SB 156

This bill attempts to assure state employees using air charter services of greater safety by removing the competitive bid requirement for these services. Contractual arrangements for these services will still be possible, but in the absence of a formal contract reasonable fees established by the Department of Administration will apply, and the employee actually flying in the aircraft may select the charter service to be used. Also, the department may promulgate regulations establishing minimum standards for air charter services to be used by state employees. The emphasis will be on the qualifications of the pilot and his aircraft.

Tom Pink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 178

This bill provides for the greater efficiency of the state ferry system by permitting the hiring of persons who are not United States citizens for handling ferry business in Canada.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 181

This bill simply adds the Board of Fish and Game to the list of state agencies covered by the Administrative Procedure Act.

Tom Fink, Chairman

3/22/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 191

This bill simply extends to July 1, 1967, the time for making application for earthquake disaster relief. The present deadline is July 1, 1966.

Tom Fink, Chairman

3/28/57

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 192

This bill establishes the Alaska Toll Bridge Authority to handle the financing and construction of toll facilities in the state.

Tom Fink, Chairman

A M E N D M E N T

Offered in the HOUSE

BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 105

Page 1, line 10: Insert "(a)" before the word "Unless"

Page 1, lines 12 - 17: Delete all material up to the period in line 17 and substitute:

damages awarded by the jury or the court interest on the entire amount of the award or a portion of it. The interest shall be calculated at the legal rate from the date the cause of action arose to the date of entering judgment, and it shall be included in the judgment.

(b) If a bona fide offer of settlement was made within 30 days of the date the cause of action arose and the amount offered at least equals the amount of the judgment no interest may be allowed for any of the time before judgment. If this offer was made later than 30 days after the cause of action arose interest may be allowed only for the period before the date of the offer.

Page 1, line 17: Begin a new paragraph and insert "(c)" before "The rate"

3/17/67

A M E N D M E N T

Offered in the HOUSE

BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 112

Page 2, line 12: Between the comma and "at" insert:

"in one published in San Francisco, California, and in one published in Chicago, Illinois,"

Page 2, lines 24 - 29 and Page 3, lines 1 - 6: Delete all matter and insert:

Sec. 37.15.080. SIGNATURES AND SEAL. (a) Each bond shall be signed on behalf of the state by the governor and attested by the secretary of state, [ONE OF] which signatures may be [A] facsimile signatures [SIGNATURE]. The seal of the state shall be impressed, imprinted or otherwise reproduced on each bond. Each interest coupon attached to the bond shall be signed by the facsimile signatures of the governor and secretary of state. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, the signature is, nevertheless, valid and sufficient for all purposes, as if the officer had remained in office until delivery.

(b) A signature required on a bond issued by a political subdivision of the state may be a facsimile signature.

Page 3, lines 13 and 14: Delete "principal deputy or assistant" and insert:

"designee in the department"

A M E N D M E N T

Offered in the House

By the Judiciary Committee

To: HOUSE BILL NO. 175

Page 1, line 15: Delete all material after the period

Page 1, line 16: Delete all material and add the following:

* Sec. 2. AS 28.10.530(a) is amended to read:

(a) Filing as provided in sec. 480 of this chapter is the exclusive method of giving constructive notice of a lien or encumbrance upon a registered vehicle [THE METHOD PROVIDED IN SEC. 510 OF THIS CHAPTER OF GIVING CONSTRUCTIVE NOTICE OF A LIEN OR ENCUMBRANCE UPON A REGISTERED VEHICLE IS EXCLUSIVE], except as to liens dependent upon possession, and a lien or encumbrance or title retention instrument which is filed and documents evidencing the instrument are exempt from secs. 22-6-5, 29-2-5, and 29-2-6, ACLA 1949, but only to the extent that those sections are inconsistent with the method provided in this section for the giving of constructive notice of a lien or encumbrance upon a registered vehicle.

3/15/67

A M E N D M E N T

Offered in the HOUSE

BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 201

Page 2, line 18: Add:

(c) In this section "agency" does not include an individual who occasionally provides the services set out in (a) of this section.

A M E N D M E N T

Offered in the HOUSE

BY THE JUDICIARY COMMITTEE

To: HOUSE BILL NO. 201

Page 2, Line 18:

Add:

(c) In this section "agency" means

(1) an establishment, the primary purpose of which is to provide the services set out in (a) of this section; or

(2) an establishment required to be licensed under secs. 20 or 90 of this chapter.

A M E N D M E N T

Offered in the HOUSE

By THE JUDICIARY
COMMITTEE

To: _____ HOUSE Bill No. 230

_____ SENATE Bill No. _____

AMENDMENT: Page _____ Line _____

Page 1, line 14: Delete "90 days" and substitute "one year"

Page 2, lines 4 - 8: Delete the sentence "An acting district ... United States." and substitute:

"An acting district judge shall be a citizen of the United States and of the state, at least 21 years of age, but need not be licensed to practice law in any one of the United States and need not have established Alaska residence before his appointment."

MEMORANDUM

March 6, 1967

SUBJECT: HB 117 and HB 229

TO: House Judiciary Committee
Tom Fink, Chairman

Re HB 117: The question was whether, as the result of enacting the bill, an out-of-state encumbrance on a motor vehicle would be without validity (as against a good faith purchaser) in Alaska unless it is filed here or is reflected on the title or registration certificate. When read in conjunction with AS 45.05.736(a)(4) and AS 28.10.470 - 28.10.480 and 28.10.510, that would appear to be the result. (Those sections require filing here and provide that it is constructive notice to subsequent purchasers and encumbrancers.)

However, this result raises the question of "full faith and credit" under the U. S. Constitution, in that it would deny a right to an individual when that right has been perfected under the laws of another state. Broderick v. Rosner, 294 U.S. 629 (1935), presented a situation in which New York law established certain liability of bank stockholders and New Jersey law specifically prohibited enforcement of that liability. The decision of the New Jersey court upheld its own statute, but the U. S. Supreme Court reversed the decision, stressing the contractual nature of the right, and saying, ". . . the full faith and credit clause does not require the enforcement of every right which has ripened into a judgment of another state or has been conferred by its statutes . . . But the room left for the play of conflicting policies is a narrow one . . . [A state] may not, under the guise of merely affecting the remedy, deny the enforcement of claims otherwise within the protection of the full faith and credit clause, when its courts have general jurisdiction of the subject-matter and the parties."

The practical effect of HB 117 (if every state had similar legislation) seeking to protect local good faith purchasers, would be to require out-of-state creditors (encumbrancers) in states where the encumbrance is not reflected on the title to file their encumbrance in all 49 other states, since they could not be sure where a defaulting debtor would run.

AS 45.05.694(d) provides for the situation when the certificate of title does reflect the encumbrance, which poses no problem here.

March 6, 1967

There appears to be a substantial question of the constitutionality of HB 117, but further research and time would be required to give a more definite answer.

Re HB 229: The first question was whether lines 27 - 28, page 1 of this bill, conflict with HB 158. If it weren't for the repealer in sec. 7 of HB 158 there would be a substantive conflict between the two bills.

The second question was whether the grant of jurisdiction over actions of an equitable nature to the district court would give that court jurisdiction over divorce cases. Since there would be a general grant of equity jurisdiction, no reason appears why this wouldn't be true. Nothing provides for exclusive jurisdiction over divorce cases in the superior court, and, under AS 22.15.030(b), "insofar as the civil jurisdiction of the district magistrate courts and the superior court is the same, such jurisdiction is concurrent."

Sincerely,

John M. Elliott
Acting Executive Director

By
Arthur H. Peterson
Legislative Counsel

MEMORANDUM

March 7, 1967

SUBJECT: HB 175 and HB 105

TO: House Judiciary Committee
Tom Fink, Chairman

Re HB 175: The question was whether the citations in lines 14 to 16 are correct. It appears that they are. There is some confusion, however, in that AS 28.10.530, which is specifically included, refers to AS 28.10.510, which is specifically excluded. Two suggestions: (1) change the wording in AS 28.10.530 to simply refer to "filing as provided in secs. 480 and 490 of this chapter;" and (2) delete the last sentence of AS 23.20.200(c) (lines 15 to 16 of the bill), as being unnecessary.

Re HB 105: The question was in what cases can the court add to the judgment interest for the time prior to the date the judgment is rendered. The only general provision dealing with interest on judgments is AS 09.30.070 (the one being amended by this bill), and the only court rule is Civ. R. 78(e) -- neither of which speak to the question of cases appropriate for the award of interest, other than limiting interest to money judgments. Superior Court Judge Thomas B. Stewart says he knows of no general law or rule or practice on this point, but warns that it is possible that the statutes contain some buried provision applying to a certain cause of action and requiring or prohibiting interest. Although the amount of the potential award may be more certain in many contract cases than in most tort cases, present law appears to contain no criteria for determining which cases would be appropriate for application of the amendment of AS 09.30.070 as proposed in HB 105.

Arthur H. Peterson
Legislative Counsel

AHP:ee

MEMORANDUM

March 13, 1967

SUBJECT: Committee bill request re the Supreme Court's recently promulgated Rules of Juvenile Procedure

TO: House Judiciary Committee
Tom Fink, Chairman

RULE 26 of the RULES OF JUVENILE PROCEDURE:

The name or picture of a juvenile under the jurisdiction of the juvenile court shall not be made available to the public unless authorized by court order accompanied by a written statement reciting the circumstances which support such authorization.

AS 47.10.090(b):

The name or picture of a minor under the jurisdiction of the court may not be made public by a newspaper, radio, or television station in connection with the minor's status as a delinquent or dependent child, except as authorized by order of the court. A person who violates this provision is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

According to the March 9 Juneau Alaska Empire, Rep. Ted Stevens, in criticizing the rule, said "under the law, the minor first must be established as a delinquent child or a ward of the court." That appears to be incorrect. Although the statute contains the clause "in connection with the minor's status as a delinquent or dependent child," there is no requirement that there be a finding that the child is delinquent or dependent before the "name-or-picture" prohibition applies. Perhaps Mr. Stevens was misquoted. (AS 47.10.080 provides for the determination of delinquency or dependency, and in (f) states that a minor found to be delinquent or dependent is a "ward" of the court.)

The same source quotes Mr. Stevens as saying "It [the Supreme Court] also overlooked the statute whereby a minor can be prosecuted for a traffic offense in the same manner as an adult." (AS 47.10.010(b) contains a general provision on this point; AS 28.30.010(d) applies only to driving a vehicle without the owner's consent.) In that under present law the District Court has jurisdiction over juveniles (but cf. HB 158) and traffic offenses there may be a conflict as Mr. Stevens implies. However, the new rule does apply only to juveniles "under the jurisdiction of the juvenile court"; it is not a general provision; and when the District Court considers a juvenile case (not a traffic case) it announces that it is now sitting as a juvenile court. So there is really no conflict. *And there is not really a difference between the statute & the rule in this respect.*

The Empire also cites Mr. Stevens as saying that it was the legislature's intention to protect the delinquent child, but not necessarily the wayward child, where some publicity can serve as a deterrent to others. Neither the House nor Senate Journals for 1957 (when AS 47.10.090(b) [1957 SB 86] was enacted) contain any indication of the legislative intent on this point; existing statutes do not indicate that the new court rule is contrary to the legislative intent but only indicate that the intent was to protect juveniles - whether delinquent or dependent or "wayward" - from the stigma resulting from unnecessary publicity; and the statutes do not contain the "wayward" versus "delinquent" distinction. (A hasty scan discloses that "wayward" only appears in AS 47.10.010(a)(2).)

There are two basic differences between the new court rule and AS 47.10.090(b): (1) The rule requires that a written statement supporting the authorization accompany the court order while the statute only provides for the court order; and (2) the statute contains the qualifying phrase "in connection with the minor's status as a delinquent or dependent child," while the court rule refers to the "jurisdiction of the juvenile court". In regard to this second point, the result of both would seem to be pretty much the same. Only this first point establishes a bit more protection for the juveniles by requiring the statement of justification. Is this what the bill requested by your committee (via Mr. Tillion) would seek to amend?

An additional difference between the statute and the rule is that the former specifies "made public by a newspaper, radio, or television station" while the latter simply says "made available to the public." Again, the result seems to be the same, and certainly this difference in language is no evidence of strongly conflicting "intentions".

Arthur H. Peterson
Legislative Counsel

MEMORANDUM

March 16, 1967

SUBJECT: HB 247 and proposed CS for HB 247 as they relate to AS 09.55.210 -- a sectional analysis.

TO: House Judiciary Committee
Tom Fink, Chairman

1. The basic change proposed by Section 1 is the removal of the consideration of "fault" (for the divorce) in determining custody of a child -- a factor not necessarily related to a party's ability to care for and raise the child, and certainly quite irrelevant when considering the bases for divorce under Alaska law. In addition, the original bill sets up an arbitrary age limit, after which no automatic preference (in awarding child custody) may be given to the mother. The CS removes the arbitrary age limit and introduces the concepts of "tender years" and "age to require education . . . ," both of which appear unworkable although the end sought is eminently sound. The CS also introduces the wishes of the child as a factor to be considered -- a situation which may already exist under case law, but which a statute would make definite.

It was my observation while studying law in Michigan that the courts there tended to give automatic preference to the mother even when good reasons for not doing so were present, and I was under the impression that this problem existed in other states, too. One of the staff attorneys who studied in Oregon says the malady is rampant there. It appears that some observers of the critics of this tendency fear that change would be a challenge to the sanctity of "Motherhood".

Section 1 of the original bill needs a technical change and Section 1 of the CS needs substantial rewording.

2. Section 2 continues the elimination of the concept of "fault" in the determination of custody and support money by requiring both parents to contribute to the welfare of the child. (Present law says the court may provide for the payment "from the party in fault.") The CS changes the original bill by substituting "by either or both parties" for "by both parties equally," and adds a provision for the establishment/for a trust fund for the future education of the child; when the spouse having custody remarries, the payments from the other spouse would go into this fund. (This should probably be in a separate subsection.)

3. Section 3 again removes the "fault" concept and allows for alimony only when one party (not necessarily the wife) is physically incapable of earning a livelihood. The CS broadens this a bit by allowing alimony when the need is manifest and one of the parties is incapable of earning a living by reason of age or physical condition. The CS also provides for the termination of alimony. This is not mentioned in the existing statute and I'm not sure how much it changes case law on the point. Daily care of a child, preventing employment, presents another problem that should be provided for in this section.

I believe the courts in general -- I'm not yet sufficiently familiar with Alaskan courts -- are tending toward a more rational approach to alimony; but again they must fight the emotional cries of "Motherhood."

The section should be reworded.

4. Section 4 limits the division of property to that acquired during coverture. The CS removes the phrase "without regard as to which of the parties is the owner of the property" which appears in existing law and the original bill. Property held jointly or separately is included. A pencilled note at the bottom of page 2 of the CS says "specifically excluding separate property acquired by inheritance or gift." If that's what was intended, I don't think that's what was accomplished.
5. Section 5 of the CS is self-explanatory. It extends to both parties the courtesy formerly extended only to the wife.

Arthur H. Peterson
Legislative Counsel

3/20/67

Memorandum

Subject: House Bill No. 221

To: House Judiciary Committee
Tom Fink, Chairman

The question was whether the proposed amendment to AS 04.15.020(e) would conflict with existing law because of the "shall" in line 18 of the bill. As you noticed, the second condition of the exception (lines 22 to 24) appears to avoid the conflict by requiring compliance with other provisions on the point.

AS 04.10.440 requires the consent of a majority of the persons over 21 residing within a one mile radius of the proposed location of a liquor outlet before a license may be issued. So if HB 221 becomes law the board may issue a license only if the borough assembly and the residents within one mile agree.

Your suggestion to delete the rest of the sentence after "municipality" in line 15 and define "school" to include "college and university", of course, would avoid the question altogether.

Arthur H. Peterson
Legislative Counsel

1968

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House Judiciary Committee - 1968

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1968

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T.F. 3/15/68

JUDICIARY COMMITTEE REPORT

on

CS For House Bill No. 27

This bill provides for a method for the owner of a vehicle, who sells his vehicle to give notice to the Department of Revenue that he is no longer the owner of the vehicle. Under current law, until title document is submitted by the buyer showing the transfer, the seller of the vehicle is still considered to be the owner of the vehicle. The committee substitute does not make it mandatory for the seller to give such notice, but permissive. Were the provision to remain mandatory on the part of the owner the paper work of the Department of Revenue for transferring titles would be considerably increased and the issuance of new titles would be considerably slowed down.

3/26/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 41

This bill provides that the justices of the supreme court shall elect one of their number to be the chief justice and that the justice so elected shall serve as chief justice for a term of three years. It also provides that the first election shall be held no later than one month after the membership of the supreme court has been increased to five justices.

Tom Fink, Chairman

T.F. 3/6/68

JUDICIARY COMMITTEE REPORT

on

House Bill No. 57

This bill is designed to facilitate the passage of ordinances and emergency ordinances by the boroughs. It takes away some of the difficult mechanical procedures required in the passing of such ordinances. It makes the procedure considerably more like that of a city government.

The Local Government Committee's committee substitute for House Bill No. 57 does not create any legal problems. The question is whether we should continue to make it difficult for a borough government to operate because of mechanical obstacles placed in its way.

3/25/68

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 92

This bill establishes a pilot public defender program to assure needy defendants of adequate legal representation and to more equitably distribute the public obligation to provide this representation. The constitutional right to counsel is held by the needy as well as the financially secure, and presently the obligation with regard to the former is met almost entirely by the members of the legal profession alone. The committee substitute provides that a needy defend^{ant}~~er~~ who is served by the public defender and who, within three years, acquires an ability to pay for the services shall do so.

Tom Fink, Chairman

3/4/65

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 103

This bill broadens the definition of doing business in the State of Alaska insofar as insurance companies are concerned. Its effect will give the state jurisdiction over any insurance company having transactions in the state. It is designed to protect the citizens of the state from insurance companies who cover risk in Alaska but are not subject to our laws or service of process within the state under current law.

It will result in considerably increasing our premium- tax income. It will not require that insurance be bought through agents in Alaska but it will require that all companies covering risk in Alaska be licensed in Alaska and therefore subject to our jurisdiction.

Tom Fink, Chairman

3/23/68

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 205

This bill provides that the owner or operator of a motor vehicle, vessel or aircraft is not liable for injury to a non-paying passenger, such as a hitchhiker or a friend, in case of an accident unless the accident was intentional or was the result of the owner's or operator's intoxication or his wilful and wanton disregard of the safety of others. This means that he, and therefore his insurance company, will not be legally bound to pay for injury resulting from his ordinary negligence.

Tom Fink, Chairman

4/21/68

JUDICIARY COMMITTEE REPORT

on

House Bill No. 212

This bill provides that written agreements to arbitrate disputes are valid, enforceable and irrevocable, except as otherwise provided by law, and sets up a procedure for handling these agreements. The bill is based on a proposed uniform act approved by the House of Delegates of the American Bar Association and the National Conference of the Commissioners on Uniform State Laws.

Tom Fink, Chairman

at 2/22/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 213

This bill repeals a 1964 amendment which permitted a corporation to provide in its bylaws that a shareholder may not cumulate his votes when electing directors. By repealing that language, the law will allow shareholders to vote cumulatively if they desire, any bylaws notwithstanding.

Tom Fink, Chairman

2/19/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 213

This bill repeals a 1964 amendment which permitted a corporation to provide in its bylaws that a shareholder may not cumulate his votes when electing directors. By repealing that language, the law will prevent a majority on a board of directors from adopting a bylaw that would deny representation to the minority. Consequently, the welfare of shareholders who do not hold a majority of stock will also have to be considered when action is taken on behalf of the corporation. Section 2 of the bill states the public policy of protecting minority shareholders against oppression by the majority and of insuring fairness and equitable business practices.

Tom Fink, Chairman

C. 3/14/66

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 234

This bill as amended is a simple conflict-of-interest statute. It requires that a public official must file a statement with the Department of Commerce within 30 days of any transaction in which he or any close relative has a financial interest in excess of \$1,000. The public official is identified as anyone holding an office in the legislative, executive or judicial branch of state government, whether or not he receives compensation.

Tom Fink, Chairman

Judiciary Committee Report

on

CS For HOUSE BILL No. 254

This committee substitute establishes the Division of Lands as the agency with the authority to vacate land plats in areas outside cities in the unorganized borough. Presently there is no state agency or political subdivision with authority to officially vacate plats in these areas. Thus plats which may have been filed cannot be formally changed or vacated. The original Bill would have also required the filing of plats in these areas with the Division of Lands, a procedure viewed as not necessary at this stage of the state's development and as placing too great a burden on areas of low population.

Tom Fink, Chairman

T.F. 3/13/68

JUDICIARY COMMITTEE REPORT

on

CS For House Bill 332

This bill requires that anyone whose name is made available to the public as a practitioner of one of the healing arts or one who tests human functions must show after his name the particular field of licensure. It also provides that a dentist who performs surgery may designate his field of licensure as "dental surgeon" or "doctor of dental surgery".

It is the opinion of the committee that this law refers only to those instances wherein the name is placed before the public as a practitioner of the healing arts or one who tests human functions. For example the committee believes that in the white pages of a telephone directory, the suffix is not necessary. In the yellow pages of the telephone directory the suffix is necessary. On the individual's letterhead the suffix is necessary and in a church bulletin the suffix is not necessary.

The obvious purpose of the bill is to assure that the public is aware of the particular field of licensure of any individual who is a practitioner of the healing arts.

The bill provides that the Department of Law may obtain an injunction to enforce this bill.

T.F. 3/10/68

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 333

This bill imposes mandatory sentences on the first and subsequent convictions for the commission of certain serious crimes if the individual is carrying a firearm. There is a 10 year minimum sentence for the first offense and 25 years for a subsequent offense.

Tom Fink, Chairman

T.P. 3/4/68

JUDICIARY COMMITTEE REPORT

on

House Bill No. 337

The present law recites that cities may construct, operate and maintain moorage facilities. The proposed bill broadened the use of moorage facilities to small boat harbors, marine repair and supply facilities, docks, and dry docks. The occurrence which caused introduction of the bill was that a federal bureau that had matching or engineering-studies money available for local governments took the position that moorage facilities did not include small boat harbors, marine repair and supply facilities, docks and dry docks.

Tom Pink, Chairman

T.F. 3/4/68

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 343

This bill as amended provides a method to properly validate a ballot of a challenged voter. Under the current law a voter may sign an affidavit that he is an eligible voter and proceed to vote. If at a subsequent time it can be proved that he was not an eligible voter his vote would already have been counted. This bill provides that a challenged voter shall vote much the same as an absentee voter and his ballot shall be approved by the absentee counters.

Tom Fink, Chairman

T.F. 3/4/68

JUDICIARY COMMITTEE REPORT

on

CS For House Bill 345

In 1966 the legislature passed a law reciting that municipal governments could not impose criminal penalties for violation of a general ordinance unless the ordinance was codified. This bill defines codification for the home rule city, the first class city and boroughs. It provides for two methods of codification. These two methods permit these municipalities to impose criminal penalties for the violation of ordinances immediately after their passage if one of the methods is followed.

Tom Fink, Chairman

2/19/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 350

This bill simply raises from \$100 to \$200 the maximum membership fee which the Alaska Bar Association may charge.

Tom Fink, Chairman

2/5/68

OK

Judiciary Committee Report

on

House Bill No. 354

This bill recognizes that in Alaska age 19 is the age of majority as well as the voting age, and, by lowering from 21 to 19 the age at which a person may drink alcoholic beverages, seeks to adjust an inequity that is simply a carryover from the days when 21 was the age of majority. In Alaska a 20-year-old may be a city councilman or borough assemblyman, he may incorporate a co-operative, devise by will, convey land, donate his eyes to a hospital, sign binding contracts and of course fight the nation's battles, but he can't buy a glass of beer. Opponents of the bill generally state that a 19- or 20-year-old is not sufficiently "adult" to drink alcoholic beverages.

Tom Fink, Chairman

Judiciary Committee Report

on

House Bill No. 354

This bill recognizes that in Alaska age 19 is the age of majority as well as the voting age, and, by lowering from 21 to 19 the age at which a person may drink alcoholic beverages, seeks to adjust an inequity that is simply a carryover from the days when 21 was the age of majority.

In Alaska a 20-year-old may be a city councilman or borough assemblyman, he may incorporate a co-operative, devise by will, convey land, donate his eyes to a hospital, sign binding contracts and of course fight the nation's battles, but he can't buy a glass of beer. In proposing this change, the bill further recognizes that no sound medical, sociological or economic reason has been advanced for arbitrarily maintaining the "drinking age" at 21.

Tom Fink, Chairman

T.F. 3/6/68

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 358

This committee substitute was proposed by the Health, Welfare and Education committee.

The bill sets up a registry of persons with disabilities. Before anyone can be listed in this registry, he or his parent or guardian must furnish written consent.

It is believed that this registry will facilitate the workings of our various agencies within the state. In theory, all of the treatment of the people listed in this registry will be contained in one file for the use of the various state agencies.

2/5/68

Judiciary Committee Report

on

House Bill No. 361

This bill seeks to protect the beneficiary of an insurance policy against unnecessary delay by the insurance company when a claim is filed on a sum determinable at the time of filing. Payment of eight per cent interest on a determinable sum is required. This is to compensate the claimant for the loss of the use of money owed him, and is not a penalty upon the insurance company.

Tom Fink, Chairman

2/6/68

Judiciary Committee Report

on

House Bill No. 361

This bill seeks to protect the beneficiary of an insurance policy against unnecessary delay by the insurance company when a claim is filed on a sum determinable at the time of filing. A date is established before which an insurance company has to make payment to avoid incurring an interest obligation; after that date payment of eight per cent interest on a determinable sum is required. This is to compensate the claimant for the loss of the use of money owed him, and is not a penalty upon the insurance company.

Tom Fink, Chairman

2/6/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 365

This bill seeks to prevent the delay, inconvenience, financial loss and frustration experienced by insurance claimants when payment by the insurance company is made in the form of an instrument not readily exchangeable for cash. The intent is to prohibit the use of what is commonly called a "sight draft", still used by some insurance companies, which requires an additional "acceptance" by the company before actual payment is made.

Tom Fink, Chairman

*based on language
in old Ariz. Rev. Stat.
23-353*

2/6/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 388

Attempting to assure a high quality of law enforcement, this bill sets minimum qualifications for state and local police officers. Additional qualifications may be required by the Department of Public Safety and the local governing bodies, respectively. Recognizing that in some areas of the state high school graduation is not as common as in other places, the committee substitute allows the department or the governing body to waive the education requirement when an individual possesses equivalent qualifications. Officers serving on the effective date of the Act need not meet the requirements specified.

Tom Fink, Chairman

Judiciary Committee Report

on

House Bill No. 397

This bill establishes in state law a specific prohibition of turning in false fire alarms. It provides for a significant penalty in addition to payment to the fire fighting authority for expenses directly involved in responding to a false fire alarm. The bill does not deal with incidental damages experienced by third persons as a result of a false alarm, leaving that matter to be resolved by existing law.

Tom Fink, Chairman

A M E N D M E N T

Offered in the House

By Judiciary Committee

To: HB 397

Page 1, Line 12:

Change "\$300" to read "\$1,000"

Line 13

Change "to exceed 30 days" to read "more than one year"

Judiciary Committee Report

on

House Bill No. 398

This bill increases by \$50 the amount of a judgment debtor's income which is exempt from execution and makes the provision applicable to women as well as men.

*changed
by Fink*

Tom Fink, Chairman

T. F. 3/21/68

JUDICIARY COMMITTEE REPORT

ark

on

CS FOR HOUSE BILL NO. 400

This bill makes three or four changes in the current law regarding issuance of real estate licenses and expands the area of exceptions to the law. It changes the present comity provision to a reciprocity one, so that regardless of his qualifications a person licensed in another state may be licensed here on the basis of his out-of-state license only if that other state provides this privilege for Alaskans.

The bill also provides that when acting under a power of attorney as an auctioneer a person may sell real estate if he is bonded in the amount of \$5,000. A person employed by a real estate broker for the purpose of auctioning specific real estate is also exempted.

T.F. 3/19/68

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 403

This bill substantially changes the current law in small estates. Currently, under some circumstances a \$2,000 estate may be set aside to the distributees and under other circumstances a \$6,000 estate may be set aside to the distributees. However, in both cases today, there is considerable expense required before the estate can be set aside.

This bill provides that an estate up to \$10,000 above all valid, recorded liens and encumbrances may be set aside to the surviving spouse or to the minor children.

It requires that the administrator, surviving spouse, or guardian of the children must file an affidavit which contains a list of the debtors and must send a letter to the debtors reciting that the court will be requested to set aside the estate. Any debt not listed is not discharged and the court may, within six months of issuing an order to set aside an estate, vacate the order if the court determines that the affiant failed to list a debt.

4/1/68

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 406

This bill removes the inconsistency regarding citizenship requirements for the various professions required to take the basic sciences examination. By repealing the citizenship requirements where they bear no reasonable relationship to the public benefit sought, the bill also avoids two areas of constitutional challenge to existing provisions -- arbitrary discrimination among aliens lawfully in the United States and arbitrary discrimination between aliens and citizens. Individuals in these professions will still be required to possess the specified educational and personal qualifications.

Tom Fink, Chairman

Judiciary Committee Report

on

House Bill no. 412

This bill simply corrects an oversight in legislation enacted last year by bringing the 1967 provision under the penalty provision in the chapter on fisheries taxes.

Tom Fink, Chairman

2/3/68

changed
by Fink

2/23/68

JUDICIARY COMMITTEE REPORT

on

House Bill No. 416

This bill extends the application of the highly successful work furlough program for prisoners. The committee substitute replaces the phrase "felony of a nonviolent nature or of a misdemeanor" with the word "crime" and adds a list of restrictions.

Tom Fink, Chairman

2/6/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 417

This bill is primarily of benefit to the more remote areas of the state. It provides that under certain circumstances when there is no judicial officer empowered to issue a warrant within 25 miles of the person to be arrested a peace officer, without a warrant, may arrest a person for a misdemeanor. Under present law an arrest for an misdemeanor without a warrant is permissible only when the misdemeanor was committed in the presence of the arresting person; the availability of a judicial officer is not considered.

Tom Fink, Chairman

T.F. 3/6/68

JUDICIARY COMMITTEE REPORT

ON

House Bill No. 419

This bill is commonly called the truth-in-lending bill. It is the same bill which passed the United States Senate the end of last year with the exception that department store revolving accounts are not excluded as they were in the U.S. Senate bill.

U. S. House, in the early part of this year passed the truth-in-lending bill which did not grant this exclusion but which added numerous other items. At this time the senate and house bills are in a Free Conference Committee in the U.S. Congress.

This bill applies to all types of credit extension except credit extensions for business or commercial purposes or to governments or to credit transactions other than real property transactions which total over \$25,000.

The bill requires that in all credit transactions all pertinent information must be printed, and particularly requires that in all transactions the simple annual interest rate be shown on the contract. It likewise requires such disclosures in advertising.

2/27/68

JUDICIARY COMMITTEE REPORT

on

House Bill No. 447

Attempting to protect sea otter, this bill raises from the misdemeanor to felony category the violation of a statute or regulation dealing with that animal.

Tom Fink, Chairman

2/21/58

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 450

Under present law a corporation may be involuntarily dissolved by the superior court if the corporation is delinquent for a specified time in filing its annual report, paying its franchise tax, appointing a registered agent in the state or filing a statement of a change in its registered office or agent, or if it procured its articles of incorporation through fraud or it has continued to exceed or abuse its authority conferred by law. This bill changes the law by permitting the commissioner of commerce to dissolve the corporation for the delinquencies, while the superior court retains jurisdiction to dissolve for the fraud and the abuse of authority. The bill also substitutes new provisions dealing with the procedures involved in and the consequences of this dissolution; it shortens from 10 to two years the time during which a corporation may obtain reinstatement and provides that certain actions are not affected by the dissolution. The committee substitute changes the original bill by postponing for six months the time when the name of the dissolved corporation may be adopted by another corporation, and by deleting the provision preserving pending actions since the preservation of them would seem to follow a for tiori from the preservation of remedies in AS 10.05.594.

Tom Fink, Chairman

2/6/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 462

This bill extends the jurisdiction of the district court to include actions for the recovery of real property when the amount involved is not more than \$3,000, which is comparable to the court's present jurisdiction over actions for the recovery of personal property.

Tom Fink, Chairman

2/7/68

Judiciary Committee Report

on

House Bill No. 461

Aut

This bill provides that an acting district judge serves at the pleasure of the presiding judge of the superior court who appointed him. This does not change the provision that the governor appoints regular district judges after nomination by the judicial council.

Tom Fink, Chairman

2/6/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 463

This bill simply corrects a clerical error in legislation enacted last year; the error - omission of this section - occurred too early in the legislative process for correction by the revisor of statutes after passage by the legislature. The section provides that the presiding judge of the superior court in each judicial district appoints the magistrates for the district, who then serve at his pleasure.

Tom Fink, Chairman

2/6/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 464

This bill simply includes, in the section requiring an approval or rejection of district judges at a general election, a reference to the provision for appointing district judges.

Tom Fink, Chairman

T.E. 3/4/66

JUDICIARY COMMITTEE REPORT

on

CS For House Bill 465

This bill makes a very slight change in the composition of the state parole board. It provides that the member of the board who is also chairman of the board is to be one knowledgeable in the field of probation and parole but that he specifically may not be an employee or director of the youth and adult authority.

The bill is recommended by the Department of Health and Welfare.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 475

To restrict a person's right to repudiate contracts entered into when he was a minor, this bill provides that a loan for higher education contracted for by a minor at least 16 years old is binding if the person making the loan has a certification of the minor's enrollment or acceptance for enrollment from the institution of higher learning where the loan is to be used.

Tom Fink, Chairman

J.F. 3/4/68

JUDICIARY COMMITTEE REPORT

on

CS House Bill 487

We presently have a law in regard to one who temporarily deprives the owner of possession of his vehicle, commonly known as joy riding. We do not have, however, in our current law, a section dealing directly with one who permanently deprives the owner of his vehicle or one which covers the permanent deprivation of personal property contained in the vehicle. This bill makes it a felony to deprive the owner of a car of its possession permanently and further makes it a misdemeanor if there is a permanent deprivation of property in or on the car under the value of \$50 and a felony for a larger amount.

Tom Fink, Chairman

T.E
3/7/60

JUDICIARY COMMITTEE REPORT

on

CS For House Bill No. 505

This bill provides that in a trust deed foreclosure, if the State of Alaska is named as the defendant, notice must set out the nature of the state's lien, including name and address of the person whose liability created the lien, the amount of the lien and the department of state government involved.

The purpose of this bill is to save the state a considerable length of time in trying to determine on what basis they are a defendant in a trust deed foreclosure action. Generally this information is available to the plaintiff and this bill is to require that it be set out. If the information is not available to the plaintiff, it need not be set out.

J.F.
3/7/68

JUDICIARY COMMITTEE REPORT

on

CS For House Bill No. 506

This bill recites that in any case where the state is made a defendant in the action, the plaintiff must set out the grounds on which the state is the defendant. Insofar as the plaintiff has information, the complaint shall show the name of the person whose liability created the lien, where it is recorded, the amount of the lien and the state agency involved.

T.F. 3/19/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 521

This is an amendment to Workmen's Compensation Law. The amendment provides that attorney fees may be awarded in any case where the employer does not file a timely notice of controversy or has failed to pay compensation or medical benefits within 15 days after they become due. The present law recites only compensation and leaves out the term "medical benefits". In many cases the failure is to pay the medical benefits and not to pay disability compensation. In these cases under existing law attorney fees may not be awarded.

Tom Fink, Chairman

T.F. 3/7/68

JUDICIARY COMMITTEE REPORT

ON

House Bill No. 526

This bill provides that in the future all fish must be paid for by cash at the time of purchase, except that a copy of a \$50,000 bond which is conditioned on the payment of the fishermen, or a copy of a certificate issued by the Department of Revenue reciting that the buyer has more than \$150,000 of unencumbered real estate, may be shown in lieu of paying cash.

The term "cash" includes accrediting the purchase price of fish against existing indebtedness to the buyer. The statute carries a penalty section.

T.E. 3/7/68

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 539

This bill makes a modification in the qualifications for the permanent district judges that will be appointed near the end of this year. The law which we passed in the last session stated that any permanent district judge must be a member of Alaska Bar. This bill recites that those district judges serving on January 1, 1968 are eligible for consideration by the judicial council for appointment to the bench this year.

A.F. 3/7/6

JUDICIARY COMMITTEE REPORT

on

House Bill No. 548

This bill limits the time that an individual is required to serve on a jury. It recites that within a two-year period of time, one need not be on a jury more than three months.

3/21/68

act

JUDICIARY COMMITTEE REPORT

on

House Bill No. 557

This bill simply requires the reporting of gunshot wounds to law enforcement authorities by a person who is consulted for the treatment of, or who treats, such a wound. Failure to report is a misdemeanor, subject to a fine of up to \$500 or imprisonment up to one year, or by both.

Tom Fink, Chairman

78. 3/13/64

JUDICIARY COMMITTEE REPORT

on

House Bill No. 558

This bill changes the language in our statutes referring to juveniles. It changes the word "juvenile" in every case to "children".

The change has been requested by the judge of the family court for the State of Alaska. The connotation of the word "juvenile" apparently is not good -- in other words -- the word "children" is good.

T. F. 3/14/68

JUDICIARY COMMITTEE REPORTS

ON

HOUSE BILL NO. 559

This bill is required as a result of the formation of rural cooperatives which have systems over a vast expanse of Alaska. Because of the great distances involved and the inconvenience of getting all members of the cooperatives together for a meeting it is necessary to provide for meetings of district delegates. Therefore, the present cooperative law is amended by this bill by adding the phrase "or district delegate" every place the word "member" appears.

It is necessary legislation for the proper functioning of rural cooperatives.

Tom Fink, Chairman

T.F. 3/17/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 562

This bill prohibits the pollution of state waters and amends the fish and game law and in so doing it provides stiff penalties and censure of any vessels involved. The enforcement of this law, would be by the Fish and Game Department as opposed to the existing pollution laws enforced by the Department of Health and Welfare

Tom Fink, Chairman

3/26/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 575

There is some question on the part of public health officials and private practitioners as to the liability for examining or treating, or the obligation to examine or treat, a minor without his parents' or guardian's consent. This uncertainty is particularly unfortunate when a minor wishes to be examined or treated for venereal disease but does not want his parents to know of the likelihood of his having such a disease. The result is that the disease goes undiagnosed and untreated, and therefore it spreads.

This bill makes clear that a person authorized to examine or treat others for venereal disease may examine or treat a minor without his parents' or guardian's consent, subject only to the same standard of care and liability as for an adult. This bill also makes this applicable to a female minor with regard to pregnancy.

Tom Fink, Chairman

T.E. 3/4/68

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 583

This bill has to do with the money and the liens of the welfare department on property which is taken under eminent domain powers. The bill provides that the Department of Health and Welfare with the approval of the attorney general may waive its lien or put conditions on its lien under specified circumstances.

These new powers granted apply only to property which is used as a domicile of the owner.

The money may be placed in escrow and used to purchase a new home for the owner, or the Department of Health and Welfare with the approval of the attorney general may release its lien and the cash may be given directly to the owner for use as he sees fit.

The Committee Substitute includes all other welfare liens and not just those arising out of old age assistance.

Tom Fink, Chairman

T.F. 3/14/68

JUDICIARY COMMITTEE REPORT

ON

CS FOR HOUSE BILL NO. 594

This bill attempts to aid in providing legal services for people who are unable to afford an attorney. We have in Alaska a corporation funded by OEO to provide legal service for those who cannot afford it. This particular bill recites that court filing fees and service of process fees need not be paid by such an individual.

It further provides that the court may, in its discretion, exempt the needy persons from putting up the bond or undertaking in a civil action when a plaintiff desires to attach some assets of the defendant.

Tom Fink, Chairman

2/28/68

art

JUDICIARY COMMITTEE REPORT
on
CS FOR HOUSE BILL NO. 595

Presently there is some uncertainty about the application of the notice requirements in the Administrative Procedure Act (AS 44.62) to the proceedings of the Department of Natural Resources, and the department believes the present notice requirement in AS 31.05.050 is not appropriate. This committee substitute requires the department to follow the notice requirements in the Administrative Procedure Act.

Tom Fink, Chairman

art
3/27/68

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 627

This bill requires out-of-state subdivision developers to disclose to the Department of Commerce information on the subdivision development. It is intended to protect Alaskan purchasers of out-of-state subdivision land against possible fraud. It also provides for Alaska court jurisdiction over out-of-state developers doing business in Alaska.

Tom Fink, Chairman

3/23/68

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 654

This bill provides that service of administrative summons by the Department of Revenue to examine papers and interrogate persons regarding tax matters should be in the manner set out in the Rules of Civil Procedure for courts.

Tom Fink, Chairman

T.F. 3/19/68

JUDICIARY COMMITTEE REPORT

on

CS For House Bill No. 661

This bill provides for statutory method to remove or censure any of the judges in our court system. Upon passage it will be immediately effective insofar as district judges are concerned and will be effective insofar as superior and supreme court judges are concerned upon the adoption of the constitutional amendment as set out in HJR 74. AS set out in the committee substitute a commission will consist of nine members with staggered four year terms. No member of the judicial council may be on this commission.

After thorough and confidential investigation the commission may recommend to the supreme court that the judge be removed or suspended. The supreme court will make the final decision as to removal.

Today the supreme court and superior court judges can only be removed through impeachment proceedings by the legislature or in the case of incapacity can be removed by the governor after a board of three investigate and make such a recommendation to the Governor.

District judges today can be removed by the presiding judge of the superior court since he appoints them. However, as a result of a statute passed in the last session, beginning January 1969, district judges will be permanent and will have tenure, which means that the superior court judge can no longer remove them. Without the passage of this particular bill a district court judge could only then be removed due to incapacity or by impeachment by both houses.

3/23/65

JUDICIARY COMMITTEE REPORT

on

CS FOR HOUSE BILL NO. 662

This bill is one of the products of the first stage of the revision of the Alaska Administrative Code and the Administrative Procedure Act. In working on this project the staff of the Legislative Affairs Agency has encountered a great amount of uncertainty on the part of some administration officials as to the various requirements of the APA and as to the distinction between laws and administrative regulations and between the Alaska Statutes and the Alaska Administrative Code.

This uncertainty has resulted in unintentional violations of the APA and in an administrative code that is difficult to use. This result is understandable since nonlawyers, who may be experts in their own fields, are being required to write, analyze, interpret and apply complex legal matter.

With the establishment of the position of regulations attorney in this bill the respective functions relating to administrative regulations will be more rationally assigned and more efficiently handled. This should result in a great savings to the state and in a superior administrative code.

Tom Fink, Chairman

12.
3/7/68

JUDICIARY COMMITTEE REPORT

on

Drug Package Legislation

The drug package consists of five bills and two resolutions. Some of the bills and one resolution are applicable equally to areas other than drugs.

SCR 20 requests incorporation of mind- altering drugs education in our schools. We believe that considerably more education in this area is probably the most important item to be accomplished.

HCR 47 expresses to the chief justice our disapproval of short sentences and suspended sentences. It requests that an analysis and seminar be conducted by the judicial system leading to more uniform sentences and a better understanding of the judiciary by the populace. It specifically requests a report to the legislature next year. This resolution is also applicable to to areas other than drugs.

House Bill 674 broadens the use of search warrants to include warrants for searching for evidence in any crime. Presently, a search warrant can only be issued in the case of a felony and can only be issued to obtain stolen property used as a means of committing a felony and property in the possession of persons who intend to use it as a means of committing a crime. This bill broadenes the use of search warrants as a result of a recent U.S. Supreme Court case. This bill is also applicable to areas other than drugs.

House Bill 675 defines a life sentence as a sentence for the actuarial period of life of the person sentenced from the date of his sentence provided that no one on a life sentence may be paroled until after he has served 15 years. This too is applicable to other areas.

House Bill 675 recites that one cannot deny the criminal intent because of being under the influence of a drug in violation of the drug act, the same as a defense is denied when under the influence of alcohol. Without this act it is conceivable that a person who commits a crime involving intent when under the influence of a drug could take the position that he was unable to have any intent because of his mental condition.

House Bill ⁵467 is probably the most difficult in that it offers a reward to anyone giving evidence leading to the arrest and conviction of one selling prohibited drugs to a minor. This bill as amended, offers a \$2,000 reward. Although it is a drastic measure it is believed to be proper in this area.

House Bill 486 is the primary bill. It essentially is the latest food and drug administration version of the so called uniform drug abuse control act with these changes:

1. The seizure of drugs without warrant is excluded.
2. Our commissioner of Health and Welfare provides the list of substances similar to those listed drugs instead of the federal government.

The bill defines stimulant depressant, hallucinogenic drugs. It places a misdemeanor penalty against one who is a possessor - user. It places a felony penalty against a possessor - pusher and all other violators. The first felony violation carries a penalty up to 25 years and a fine of \$20,000 or both. The second felony violation or the first, if the violation is the sale to a minor, carries a penalty up to any term of years or life and \$25,000 fine or both.

The bill amends the narcotics act by applying the same penalties for violation of the narcotics act as we have for the dangerous drugs. It also ~~and~~ places marijuana under the drug abuse act and takes it out of the narcotic act. Marijuana is classified as a depressant, stimulant or hallucinogenic drug. The penalties are severe but do not carry minimums.

3/24/68

JUDICIARY COMMITTEE REPORT

ON

HOUSE BILL NO. 679

This bill attempts to more adequately compensate an attorney when he is required to interrupt his law practice in order to represent an indigent defendant on a virtually unpaid basis. It provides that he may be reimbursed by the state for his services, with the rate based upon the standard minimum bar fees for the area in which he regularly practices. He is also entitled to expenses necessarily incurred by him in representing the indigent person.

Tom Fink, Chairman

art 3/27/68
JUDICIARY COMMITTEE REPORT

ON

House Bill No. 695

This bill gives the commissioner of commerce or his designee authority to issue an order directing a person to cease and desist an act or practice in violation of the Alaska Securities Act of 1959 (AS 45.55). Presently the commissioner or his designee only has authority to bring an action in the superior court to enjoin such acts or practices.

Tom Fink, Chairman

art
4/1/68

JUDICIARY COMMITTEE REPORT

ON

House Bill No. 706

Last year when the House considered House Bill No. ~~496~~, establishing a new chapter on nonprofit corporations and repealing the old one, an attempt was made to exclude religious corporations from the application of the new chapter and to have the existing law apply to them. As a technical matter the method chosen to accomplish this was unsuccessful, and it is something the Revisor of Statutes cannot lawfully correct. Therefore HB 706 was introduced to re-enact the old law dealing with religious corporations. The effective date of this bill coincides with the effective date of HB 4.

4/3/68

JUDICIARY COMMITTEE REPORT

on

HOUSE BILL NO. 707

This is a revisor's bill prepared under the authority of AS 01.05.-36. Under AS 24.30.020 it is not limited by the "one subject rule". A synopsis of the bill follows:

Sections 1, 6, 8, 10, 11, 12, 13, 14, 16, 17, 19 and 21 correct typographical, printing, citation and other clerical or mechanical errors. Regarding sections 13 and 14, see sec. 6(9) and 6(10), ch. 135, SLA 1961.

Sections 2, 4, 5 and 18 make the provisions in those sections consistent with current law. Regarding section 2, see AS 08.98.010. Regarding section 4, see AS 08.01.010 and 050. Regarding section 5, see ch. 24, SLA 1966. The section being amended here seems to have caused more difficulty than other sections in Title 22 having the same defect. A more thorough review of this title, to make similar corrections in other sections, will be conducted before the next session. Regarding section 18, see AS 08.88.011.

Section 3 clears up some possibly ambiguous language.

Section 7 corrects an error that occurred in preparation of the final version of HB 438 (see sec. 1, ch. 26, SLA 1968). The state bond counsel strongly urges this correction in order to avoid misinterpretation of the statute.

Section 9 adds a provision that was inadvertently omitted when the Alaska Statutes were adopted in 1962. This allows the Department of Revenue to accept advance payment of nonresident business taxes in lieu of the bond required. (See sec. 1(c)(2), ch. 71, SLA 1955.)

Section 15 deletes confusing language. A "political subdivision" of a state is usually thought of as a city, a county, a borough, etc., and not as a state agency. The deletion will not interfere with the structure or functioning of the organization involved.

Section 20 clears up confusion about the maximum interest rate that may be specified in a contract. Before March 6, 1939 the legal maximum was 10 per cent, and contracts entered into before that date and specifying up to that rate are constitutionally protected and may be enforced. The amendment makes clear that the present maximum is 8 per cent.

Tom Fink, Chairman

art

2/7/68

Ann

JUDICIARY COMMITTEE REPORT

ON

HOUSE CS FOR CS FOR SENATE BILL NO. 50 am

This bill requires the licensing of outfitters, master guides, registered guides and assistant guides, and specifies qualifications for each. The House Committee Substitute changes the Senate Committee Substitute, as amended, by making the Fish and Game Board responsible for this licensing rather than create a new board. It also allows the commissioner of fish and game to give master guides and assistant guides a limited enforcement authority, and it requires all guides to report violations of fish and game statutes and regulations. Assistant guides may refuse to accept the enforcement authority.

Tom Fink, Chairman

4/1/68

ant

JUDICIARY COMMITTEE REPORT

on

Senate Bill No. 144

This bill, dealing with highway beautification, is necessary in order for the state to qualify for certain Federal financial assistance. It provides for the development and improvement of highways and the regulation of junk yards and outdoor advertising.

Tom Pink, Chairman

3/17/68

out

JUDICIARY COMMITTEE REPORT

on

CS FOR SENATE BILL NO. 161

This bill repeals the present contractors licensing law and replaces it with a new law. The proposed bill covers the contractors in the entire state as opposed to existing law which covers only in the earth quake areas. The proposed law does not have a board but licenses rather are issued by the Department of Commerce. The essential feature of the proposed law is that the contractor must have a bond in the amount of \$5,000 if a general contractor and \$2,000 if a specialty contractor guaranteeing the payment of his employees' wages, taxes, suppliers, for any breach of contract and any damage done to public facilities.

The bill specifically provides that a contractor cannot be required to post a license bond for purposes of obtaining a contractors license from any municipality.

House Judiciary Committee Report

on

Senate Bill no. 170

The primary function of this bill is to make certain reproductions of original public records serve as the original records for all purposes, including court use. It thus permits and encourages microfilming which will eventually result in a great saving of storage space. The committee substitute seeks to insure that when the specified type of reproduction is made the original record is not automatically destroyed. This recognizes that it is desirable to preserve some types of original records and that in such instances microfilming will aid in this preservation, both by assuring a spare copy and by providing a use copy so that wear and mutilation of the original is avoided. The Department of Administration and political subdivisions are required to establish and publish criteria for the retention and disposal of original records.

Tom Fink, Chairman

T.F. 3/14/68

JUDICIARY COMMITTEE REPORT

ON

HCS FOR SENATE BILL NO. 194 am

This is a rather lengthy bill which has been requested by the people in the collection agency business in Alaska, for purposes of licensure of collection agencies. Under the bill the Department of Commerce shall issue the licenses. There shall be a three-man board which may set up rules and regulations; one of the members shall be designated by the Commissioner of Commerce from his staff. The bill sets up the necessary qualifications for an operator's license and for an agency license. It provides a grandfather clause for existing credit agencies; it also provides for a nonresident collection agency.

A \$5,000 bond is also required.

This bill requires that within 30 days after the end of each month the collection agency must remit any collections made in excess of \$20 for any one account. It further requires that semi-annually the operator must give a current list of his employees to the Department of Commerce.

This bill has become particularly important as the result of some individuals involved in the collection agency business in the last two years in the State of Alaska.

Tom Pink, Chairman

3/19/68

art

JUDICIARY COMMITTEE REPORT

on

HOUSE CS FOR SENATE BILL NO. 215

Present law relating to eminent domain proceedings requires the appointment of a master to determine the amount to be paid to the owner of property, or other person having an interest in it, when it is taken for a public use. The result is that both the agency taking the property and the person having the interest have to bring all of their evidence and expert witnesses before the master as well as before the jury, a very costly duplication.

The purpose for establishing the master procedure was to avoid unnecessary jury trials, but in the far greater percentage of cases the master's decision is appealed and a jury trial held anyway. Often all parties to the proceeding intend to appeal from the master's decision even before it is rendered, yet under present law the requirement of going before the master may not be waived.

This committee substitute provides that there shall be a master's hearing unless one of the parties to the action objects to the appointment of a master, in which case the action may go directly to a jury trial. The original bill would have established a procedure for going before a three-man commission instead of the master. It was felt that this procedure was too cumbersome and some provisions of the bill put the right to a jury trial in question.

Tom Fink, Chairman

2/19/68 cert

JUDICIARY COMMITTEE REPORT

on

HOUSE CS FOR SENATE BILL NO. 216

This bill proposes changes in the Supreme Court's Rules of Civil Procedure paralleling the statutory changes proposed in SB 215, in order to have consistency between the rules and the statutes. The committee substitute parallels the committee substitute for SB 215.

Tom Fink, Chairman

JUDICIARY COMMITTEE REPORT

on

Judiciary CS for ~~CS~~ Senate Bill 220

This bill establishes a lien for towing and storage of vehicles properly towed and stored. The committee substitute limits the lien to a maximum of \$100. The lien may consist of the towing charges according to a filed tariff and of storage at the rate of \$1 per day.

It provides that the lienor may sell the vehicle for the amount of the lien after it has held its position for 90 days.

Under current law the charges for towing and storage are not prior to a recorded lien holder. Under the proposed bill said charges shall be prior to the maximum extent of \$100.

To Fink

2/11/68

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 241

This bill prohibits improper use of the state seal. The amendment simply deletes language made unnecessary by the general definition of the word "person" in AS 01.10.060(7).

Tom Fink, Chairman

A M E N D M E N T

In the HOUSE

By Judiciary Committee

To: SENATE BILL NO. 241

Page 1, line 11: Delete ", firm, association or corporation"

T.F. 3/4/68

JUDICIARY COMMITTEE REPORT

on

HCS FOR SENATE BILL 246

This proposed law draws our statutes on proclamation of martial law into compliance with our constitution. It throws out the use of complete or limited martial law and recites that the governor may proclaim martial law as set out by the constitution and may at the time of proclaiming martial law recite the functions which are necessary to be taken over by the militia.

Tom Fink, Chairman

3/25/68

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 249 am

This bill gives the Department of Public Safety authority to adopt regulations relating to the cooperation between members of the department and local police officers with regard to information on criminals. These regulations are to be submitted to the legislature on the day it convenes, and if not disapproved within 60 days they become effective at a date designated by the department.

Tom Fink, Chairman

3/21/68

art

JUDICIARY COMMITTEE REPORT

on

Senate Bill No. 253

This bill establishes the Governor's Planning Council on the Administration of Justice. The council is to study and make recommendations regarding crime, criminal justice and criminal law. The council may employ a staff and may accept federal and private money.

Tom Fink, Chairman

3/20/6

Ad

JUDICIARY COMMITTEE REPORT

on

HOUSE CS FOR SENATE BILL NO. 255

This bill provides for the awarding of attorney fees and expert witness fees under certain circumstances in eminent domain proceedings. The committee substitute makes this provision applicable to the condemnor as well as the condemnee. The bill also provides for reimbursement to a property owner for certain expenses incident to condemnation. The committee substitute changes the maximum permissible payment for moving expenses when the state may be reimbursed under a Federal program.

Tom Fink, Chairman

T.F. 3/4/68

JUDICIARY COMMITTEE REPORT

on

Senate Bill 261 am

Our existing law prohibits minors under the age of 17 from entering pool rooms or card rooms. This bill strikes the reference to pool rooms so that the prohibition will only apply to minors under the age of 17 in a card room.

It does not change the law insofar as any establishment where liquor is served. The bill was introduced, because today we have a decided trend of development of pool halls which are pleasant and fit surroundings, much like bowling alleys.

Tom Fink, Chairman

7-1-20 3/20/20

art

JUDICIARY COMMITTEE REPORT

on

CS For Senate Bill No. 265

This bill provides for a maximum liability for valuables stored in a hotel and for liability of the hotel operator for negligence if any other baggage is lost or destroyed. It also provides for a hotel or boardinghouse operator's lien on all baggage for any bills owing to the operator. After a specified time he may sell the baggage to satisfy the lien.

The bill further establishes a felony with a maximum sentence of five years for defrauding or cheating a hotel operator if the amount of money involved is more than \$100. If the amount involved is less than \$100 the crime is a misdemeanor with a maximum sentence of six months. Certain factors are specified which are to be considered prima facie evidence of the fraudulent intent. And the bill repeals the section in existing law which requires a hotel operator to post a copy of the law in each room.

7-5 3/15/68

JUDICIARY COMMITTEE REPORT

ON

HCS For SENATE BILL 332

This bill, in the form of the committee substitute, does not change the penalty for leaving the scene of an accident unless physical harm is done to an individual. Section 2 of the committee substitute specifically provides that if one leaves the scene and there is an injured person at the scene that the penalty is substantially increased. It provides that upon conviction one may be imprisoned for not more than 10 years or fined not more than \$10,000 or both.

The bill as amended is aimed at substantially increasing the penalty for a hit and run driver who injures an individual.

3/23/68

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 344

This bill simply establishes a penalty for persons selling intoxicating liquor in an area where a local option election has made this illegal.

Tom Fink, Chairman

1-2-3/19/68

JUDICIARY COMMITTEE REPORT

ON

CS For Senate Bill No.339 am

This bill as amended will allow municipalities to issue revenue bonds providing for the payment of principal and interest from any unpledged revenues of a combined system of public works.

The present law provides that revenue bonds may provide for the repayment only from unpledged revenues of a specific public works.

There is a current problem in the Nome area wherein revenue bonds can be issued if the municipality can pledge the revenues of an entire public works system.

Tom Fink, Chairman

3/24/67

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 395

This bill amends the Administrative Procedure Act by providing that meetings of a hospital medical staff, or governing body or committee of a hospital, when acting upon matters of professional qualifications, privileges or discipline need not be open to the public. Juries, parole boards, etc., are similarly exempted from the open-meeting requirement.

Tom Fink
Chairman

3/26/68

A M E N D M E N T

Offered in the HOUSE

By the Judiciary Committee

TO: CS FOR HOUSE BILL NO. 92

Page 7, Between lines 3 and 4 insert:

" * Sec. 2, AS 39.25.120 is amended by adding a new paragraph to read:

(7) attorney members of the staff of the public defender agency."

Page 7, line 4: Change "2" to read "3"

7/4/68

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: House Bill No. 212

Page 1, line 15 after the period, add "However, this chapter does not apply to a labor-management contract unless it is incorporated into the contract by reference."

As a result of the amendments made in the House to CSHB 486, the following amendment to the rehabilitation section should be made:

AMENDMENT

IN THE SENATE

TO: CSHB 486 am

Page 8, Line 24:

Change the period to a comma and add: "if it is his first or second conviction. If it is his third or subsequent conviction he may be committed to the custody of the department for rehabilitative treatment for not more than five years."

Page 12, Line 6:

After "department" insert "of health and welfare". Change the period to a comma and add: "if it is his first or second conviction. If it is his third or subsequent conviction he may be committed to the custody of the department for rehabilitative treatment for not more than five years."

These changes were undoubtedly just overlooked when the other amendments were made.

AMENDMENT

IN THE HOUSE

BY THE JUDICIARY COM.

TO: SENATE BILL NO. 347 am

Page 1, Line 10:

After "person" insert "who". After "organization" insert "which".

Page 1, Line 11:

Change "operating" to "operates" and "furnishing" to "furnishes".

Page 1, Line 12:

After "contract" insert "and which does not have a chartered local in this state".

Page 1, Line 18:

Delete sec. 2.

Page 2, Line 1:

Delete the "(a)".

Page 2, Line 2:

Delete ", agent or employee". After "national" delete the comma and insert "or".

Page 2, Line 3:

Delete "or local".

Page 2, Lines 4 - 5:

Delete "to wilfully refuse to aid in, or".

Page 2, Line 6:

Delete "or other unlawful act".

Page 2, Line 9:

Delete subsection (b).

Page 2, Between lines 14 and 15:

Insert: ~~XXXXXX~~ "Sec. 23.40.055. CIVIL ENFORCEMENT. In addition to the criminal penalties provided in sec. 60 of this chapter, the attorney general may enforce the provisions of this chapter by appropriate civil proceedings, including ~~with the exception of~~ injunctive relief, against threatened, repeated or continuous violations of this chapter or regulations promulgated under it. These proceedings may be brought against an officer, agent or employee of an international, national or local labor organization.

"Sec. 23.40.057. EXEMPTIONS. (a) The commissioner may grant an exemption from the provisions of this chapter to a labor organization which

who reside in Alaska
"(1) has so few ~~resident~~ members/that chartering and
operating a local would work a financial hardship on these members;
~~however, this exemption may not be granted to a labor organization~~
~~which has 500 or more Alaska residents as members;~~

"(2) maintains local-hire preference provisions in all of
its labor-management agreements in the state; and

"(3) maintains provisions in its constitution and bylaws
for the election, by and from among the members of the organization
who reside in Alaska, of a business agent or other person in charge
of hiring-hall, dispatch or grievance procedures.

"(b) Exemptions granted under this section shall be applied
for and granted on an annual basis in accordance with regulations
promulgated by the department. No exemption may be granted under
this section to a labor organization which has 500 or more Alaska
residents as members."

Page 2, Lines 16 - 17:

Delete "or local".

Page 2, Line 19:

Delete "for each offense".

Page 2, Line 20:

Delete "agent or employee".

Page 2, Line 21:

Delete "or local".

~~XXXXXXXXXXXXXXXXXX~~

~~XX~~

1/24/68

M E M O R A N D U M

SUBJECT: HB 167 - a sectional analysis, etc.

TO: House Judiciary Committee
Tom Fink, Chairman

Subsection (a) of the proposed re-enactment of AS 11.20.275 appears to simply duplicate AS 11.20.150, and in doing so creates a conflict between the penalty provisions. The proposed law makes larceny (although that word isn't used) a misdemeanor while existing law makes it a felony. See AS 11.05.010 and 11.75.030 for the distinction between misdemeanors and felonies.

Subsection (b) changes existing law slightly by expanding the term "retail business establishment" to "premises" and by removing the "intent" element of the crime, i.e., "intent to deprive the owner. . . ." Thus, wholesale businesses, warehouses, display rooms, etc., would come under the protection of the shoplifting law.

Subsection (c) is virtually identical to existing law.

Subsection (d) defines the concept of "consent" as used in (a) and (b).

The bill should be amended to clear up the problem created by (a).

Arthur H. Petersen
Legislative Counsel

Introduced: 2/14/67
Referred: Commerce and
Judiciary

1 IN THE HOUSE

BY STEVENS

2 HOUSE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to removal and concealment of mer-
7 chandise.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.20.275 is repealed and re-enacted to read:

10 Sec. 11.20.275. REMOVAL AND CONCEALMENT OF MERCHANDISE. (a) A
11 person who takes or removes any merchandise or thing of value from the
12 premises where the merchandise or thing of value is kept for the
13 purposes of sale, barter or storage without the consent of the owner
14 or person lawfully entitled to the possession of the merchandise or
15 thing of value is guilty of a misdemeanor. - *conflict 7/5/50*

16 (b) A person who, without authority, wilfully conceals upon or
17 about his person any merchandise or thing of value while still upon the
18 premises where the merchandise or thing of value is kept for purposes
19 of sale, barter or storage without the consent of the owner or person
20 lawfully entitled to its possession is guilty of a misdemeanor.

21 (c) Any merchandise or thing of value found concealed upon or
22 about the person and which has not been purchased by the person is
23 prima facie evidence of wilful concealment under (b) of this section.

24 (d) In this section "consent" means express consent, or consent
25 implied by possession of a sales ticket, slip or receipt issued for
26 and accompanied by the article or articles of merchandise or other
27 thing of value.

broader

In a store providing

intent removed

same

January 29, 1968

Mr. Norman L. Schwalb, Manager
Alaska Chapter
Associated General Contractors
Box 3-4088
Anchorage, Alaska 99501

Dear Mr. Schwalb:

In connection with Senate Bill No. 161 (with which you are no doubt familiar), I have been requested to write to your organization for a reference to some other state's law which you feel properly deals with the licensing and or bonding of contractors. If your organization cannot provide information on the relevant law in all other states please suggest one that can.

The bill is presently under consideration and your prompt reply would be greatly appreciated. Thank you.

Yours truly,

John M. Elliott
Executive Director

By
Arthur H. Peterson
Legislative Counsel

AHP/eh

ALASKA
CHAPTER



ASSOCIATED GENERAL CONTRACTORS OF AMERICA

BOX 3-4088 • ANCHORAGE, ALASKA 99501

TELEPHONE 272-3417

NORMAN L. SCHWALB
MANAGER

January 30, 1968

Mr. John M. Elliott
Executive Director
Legislative Affairs Agency
Pouch Y - State Capitol
Juneau, Alaska 99801

Attention: Mr. Arthur H. Peterson
Legislative Counsel

Dear Sir:

In your letter of January 29, 1968, you inquire as to other states contractors licensing law. It seems to be nationally recognized that probably the best and most complete law covering this subject is that of the state of Nevada. I am not too familiar with other state laws, but it is my understanding that many have been copied from the Nevada statute.

Yours truly,

Norman L. Schwalb
Manager

NLS:clc

February 5, 1968

Mr. Edgar Paul Boyko
Attorney General
Department of Law
Pouch K
Juneau, Alaska 99801

Dear Mr. Boyko:

The House Judiciary Committee has asked me to get an opinion from the attorney general on the validity, under the U. S. Constitution and recent federal civil rights legislation, of a provision such as that proposed by House Bill No. 406 (copy enclosed). Five specific questions were raised:

*re
basic sciences
exam
qualif.*

1. Is the practice of a profession or pursuit of an occupation a right or privilege?
2. May a state discriminate between a citizen of the United States and a noncitizen?
3. If so, are there any limitations on this discrimination?
4. With regard to citizen versus noncitizen discrimination in professional and occupational licensing, does the fact that members of the legal profession become "officers of the court" and swear to uphold the constitution, etc., justify the citizenship requirement for that profession when it would not be valid for others?
5. May a state discriminate between noncitizens, as this bill and AS 08.64.200(1) do?

The committee presently has the bill under consideration and, needless to say, would appreciate an early reply. Thank you.

Yours truly,

Arthur H. Peterson
Legislative Counsel

Enclosure

March 30, 1968

The Honorable Tom Fink
Chairman House Judiciary Committee
State Capitol Building
Juneau, Alaska 99801

Dear Representative Fink:

Reference is made to your request of February 5, 1968 for an opinion as to the validity of HB 406. As stated in Governor Hickel's letter of transmittal to the legislature the purpose of HB 406 is to reconcile an inconsistency presently found in AS 08.16.140 (2) and 08.64.200 (1). It is the opinion of our office that rather than amending both these sections to make them consistent it would be better to delete both sections and thus remove the possibility of constitutional challenge.

In order to prohibit aliens from the practice of medicine there must be a rational basis for such discrimination. If there is no rational basis, such prohibition would violate the equal protection clauses of the United States and Alaska Constitutions.

While it might be reasonable to restrict the issuance of license to practice medicine to only those aliens with a command of the English language, with a medical education satisfying United States standards, and with the ability to pass a rigorous state examination it would be unreasonable to exclude all aliens from the practice of medicine in this state. There are

The Honorable Tom Fink
Juneau, Alaska

March 30, 1968
Page 2

undoubtedly many aliens from countries other than the United States, Canada, or the United Kingdom who are fully qualified. Therefore the present prohibition found in the statutes is too broad and should be eliminated.

Sincerely

EDGAR PAUL BOYKO
ATTORNEY GENERAL

By G. Kent Edwards
Deputy Attorney General

EPB/GKE/1sw

March 30, 1968

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Chairman House Judiciary Committee
State Capitol Building
Juneau, Alaska 99801

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The Honorable Tom Fink
Juneau, Alaska

March 30, 1968
Page 2

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Sincerely

EDSAP PAUL BOYKO
ATTORNEY GENERAL

By G. Kent Edwards
Deputy Attorney General

EPP/CKE/lsw

MEMORANDUM

February 10, 1968

Subject: A conflict in AS 28, "Motor Vehicles".

To: House Judiciary Committee
Tom Fink, Chairman

This refers to the January 31, 1968, letter to Ted Stevens from some Anchorage judge (copy attached) pointing out a conflict between AS 28.35.-030 and AS 28.15.220 and between AS 28.35.030 and AS 28.15.260, all dealing with the suspension of drivers' licenses upon conviction of certain offenses.

In 1967, AS 28.35.030 was amended by removing the restriction "upon a public street or highway." This simply broadens the scope of application of the section and has nothing to do with the mandatoriness or length of the suspension. So I don't think the judge's comment on the "intent of the last session of the Legislature" is well taken unless he just means that by amending the section without changing these aspects of it the legislature re-affirmed the "intent" of the provision which was enacted in 1955.

There is, however, a conflict between AS 28.35.030 and AS 28.15.220, which is caused by the internal inconsistency of AS 28.15.220(b)(1) which reads, essentially, "A court may . . . suspend . . . a license, upon a showing by the department that the licensee (1) has committed an offense for which mandatory revocation of license is required upon conviction." This internal inconsistency has existed since the provision was enacted in 1959.

This could be cleared up by repealing AS 28.15.220(b)(1) and perhaps adding a subsection (c) requiring courts to automatically apply mandatory suspension provisions. However, in light of AS 28.15.210(b), a more rational and just approach would be to add to AS 28.15.220(b)(1) and AS 28.35.030 a reference such as "subject to the considerations specified in AS 28.15.-210(b)."

There is also a conflict between AS 28.15.260, which is a general provision setting out maximum suspension periods, etc., and AS 28.35.030, which requires a three-year suspension for a second or subsequent offense -- something allowed in AS 28.15.260 only for third offenses. If the period specified in AS 28.35.030 is thought desirable, AS 28.15.260 could be amended by inserting "except as provided in AS 28.35.030" to resolve the conflict. Perhaps a better way would be to delete the conflicting time provision in AS 28.35.030 and let AS 28.15.260 govern. This way AS 28.15-260 will not be cluttered with references and complicated by exceptions

Mr. Tom Fink, Chairman
House Judiciary Committee

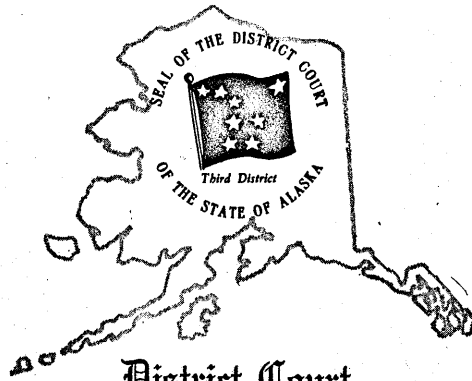
-2-

February 10, 1968

as new sections like AS 28.35.030 are added. I believe the latter approach would be favored by the judge who wrote the letter to Mr. Stevens.

Arthur H. Peterson
Legislative Counsel

See Palmer v. State, 6 Ak. L.J. 319 (10/4/68, 1st Jud. Dist.)



District Court

State of Alaska

941 FOURTH AVENUE
ANCHORAGE, ALASKA 99501

January 31, 1968

Representative Ted Stevens
Majority Leader
House of Representatives
State Capital Building
Juneau
Alaska 99801

Re: Statutes Relating to Driver's
License Suspension

Dear Ted:

As you know, Alaska Statute 28.35.030 as amended in 1967, provides that upon a second or subsequent conviction for driving while under the influence of intoxicating liquor or drugs a person's driving privileges shall be suspended for three years. Alaska Statute 28.15.220, as amended in 1964, makes suspension, revocation, or limitation discretionary with the Court, and Alaska Statute 28.15.260, as amended in 1964, places a one year limit on any suspension or limitation. It is obvious to me that the intent of the last session of the Legislature was to make it mandatory to suspend driving privileges for three years under the conditions stated and I will act accordingly though I disagree with the provision. However, I know that there is some disagreement with my interpretation of the Statute and we are all in agreement that some clarifying legislation would be helpful.

Ted, I'll probably be running into this sort of thing all during the session as I'm hoping to take the time to review the Statutes most effecting this Court. If you wish, I'll direct future correspondence to whomever you suggest.

ALASKA STATE LEGISLATURE

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

MEMORANDUM

February 21, 1968

TO: House Judiciary Committee
Tom Fink, Chairman

SUBJECT: Drug Legislation.

The following bills have been introduced or offered for your consideration:

- SB 146 -- new chapter dealing with depressant, hallucinogenic & stimulant drugs.
- HB 369 -- includes provision for depressant & stimulant drugs in present drug chapter (not the chapter dealing with narcotic drugs).
- HB 379 -- includes "hallucinogenic substance" in narcotic drug chapter; increases certain penalties; deletes mandatory sentence requirement for use.
- HB 486 -- adds new chapter on "drug abuse"; repeals old chapter on narcotic drugs and certain sections in the drug chapter and the food, drug, and cosmetic chapter.
- HB 497 -- makes inhaling toxic vapors a crime.
- HB 512 -- death penalty for second violation of selling, etc., provision.
- HB 567 -- reward for informers.
- L.A.A. draft -- makes possession of cannabis a misdemeanor; deletes mandatory sentence requirement.
- Dept. of Law draft -- adds new chapter on depressant, hallucinogenic & stimulant drugs; deletes cannabis from definition of narcotic.

These bills, comments of committee members and testimony of witnesses have raised a number of basic questions which are set out below. While considering these questions, the fundamental questions should be borne in mind: Is this a proper area of governmental intervention or regulation? If so, what will be the effect of a proposed action -- whether harmful or beneficial -- on the society and on its individual members? The questions are:

- 1) With regard to all drugs under consideration -- narcotics, depressants, stimulants and hallucinogens -- what decisions should be made on the following distinctions:
 - A) user v. pusher;
 - B) mandatory v. non-mandatory sentences;
 - C) minimum v. discretionary sentences;
 - D) felony v. misdemeanor v. legal? use of it
- 2) With regard to marijuana in particular, should/~~it~~ be left as a felony or made a misdemeanor or legalized? What about selling it?
- 3) Should the use of LSD, for example, be made illegal? What about selling it? The factors here are different from the marijuana factors.
- 4) Should there be a distinction between penalties for selling to minors, i.e. persons under 19, and selling to adults?
- 5) If the term "abuse" is used, how should it be defined? Dr. Fort gave a good definition.
- 6) Should the L.A.A. conduct a study of drug laws, etc.?

ALASKA
STATE LEGISLATURE /

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

MEMORANDUM

- 2 -

- 7) Should a resolution suggesting revision of its laws be directed to Congress? The President's task force on this subject made such a recommendation.
- 8) What bill best expresses the committee's desires? Will it bring any criminogenic effects?

Numerous studies of this subject ~~XXXXXXXX~~ -- both governmental and private -- point out the fact that much legislation and past assumptions are not holding up under the development of medical, psychological, sociological and legal knowledge and thought. Because there are some dangers involved, consideration of the subject often is in an atmosphere of fear bordering on panic. The dangers should be pinpointed as precisely as possible and then dealt with appropriately.

Arthur H. Peterson
Legislative Counsel

2/28/68

February 28, 1968

Honorable Howard W. Pollock
House of Representatives
1507 Longworth House Office Building
Washington, D. C. 20515

Dear Congressman Pollock:

As you know, the Alaska Legislature is presently considering a number of bills dealing with the regulation of drugs. It has been recommended that we obtain a copy of the testimony of Fred Vinson, Jr., before the Staggers committee, discussing the administration-backed drug bill (HR 13555, I believe). Please send a copy of this testimony.

Thank you.

Yours truly,

Arthur H. Peterson
Legislative Counsel

AHP:am

FC

3/28/68

ant

JUDICIARY COMMITTEE REPORT

on

House Joint Resolution No.

This resolution proposes an amendment to the state constitution to provide for the rotation of the chief justice of the supreme court (by having the justices elect one of their number every three years) and require that his office and residence be in Anchorage. This avoids the question whether the rotation could be constitutionally accomplished by statute. The resolution also requires the first election of ~~the~~ a chief justice to be held within one month after the constitutional amendment becomes effective.

Tom Pink, Chairman