1973-74

HOUSE JUDICIARY COMMITTEE

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HOUSE JUDICIARY COMMITTEE

MINUTES - 1973

CHAIRMAN: REPRESENTATIVE CLEM TILLION

MEMBERS: REPRESENTATIVE GENIE CHANCE, REPRESENTATIVE JOSEPH ORSINI, REPRESENTATION HUGH MALONE, REPRESENTATIVE MILDRED BANFIELD, REPRESENTATIVE HELEN BEIRNE, AND REPRESENTATIVE RICHARD MCVEIGH.

LEGAL COUNSEL: Mr. Hayden Kaden and Mr. Arthur Peterson

SECRETARIES: Merle A. Mason (Mrs.)
Sharon A. Marlowe

Eighth Alaska State Legislature
First Session - January 8, 1973-
April 7, 1973

1973

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(1st Regular Session)

HOUSE JUDICIARY COMMITTEE
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1973

MINUTES

(REGULAR SESSION)

1/11/1973- 4/5/73

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, January 11, 1973

The meeting was called to order by Chairman Tillion in Committee Room 2, State Capitol Building, at 3:00 p.m. Present were Fischer, Beirne, Chance, Malone, Orsini, and Banfield.

This was a meeting of introduction for freshmen legislators who are assigned to this committee. Chairman Tillion explained how the committee operates.

Chairman Tillion informed committee members that the regular meeting room for House Judiciary Committee would be in the Assembly Apartment Building, Room 104. It is not completed on this date, but we will move into it as soon as it is finished.

Banfield moved and asked unanimous consent that the meeting be adjourned. There was no objection. Meeting adjourned at 3:10 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, January 18, 1973

The meeting was called to order by Chairman Tillion at 3:40 p.m. in Room 100 of the Assembly Apartments. Present were Banfield, McVeigh, Tillion, Orsini, and Hayden Kaden.

The main purpose of this meeting was to assign bills and schedule public hearings. There was also discussion of committee procedures related to carrying a bill on the floor and how to bring up a bill that was in committee but had not been scheduled for consideration.

Monday, January 22:

Selection/ Att. Gen. — HJR - 9 - Selection of attorney general and district attorneys. Orsini and McVeigh have been assigned to research this resolution. The attorney general will be notified by the secretary. — HJR 9

Privilege of reporters — HB-84 - Privilege of reporters. Mr. William Tobin will be notified and invited to testify on this bill. — HB 84

Tuesday, January 23:

Interest Rates/State — Public hearing is scheduled for SB-37 - Interest rates charged in the State. Rep. Fink and Sen. Rettig have been requested to testify on this measure. The bank lobbyist is also to be notified. — SB 37

Other Assignments:

Good Samaritan Act — HB-88 - Good Samaritan Act. Banfield - for consideration next week. — HB 88

Contr. Res. Interest — HB-92 - Relating to contractual restrictions/interest. Genie Chance - no date. — HB 92

Pari-Mutuel betting — HB-23 - Pari-mutuel betting. McVeigh - no date. — HB 23

Banfield moved to adjourn; McVeigh seconded. There was no objection. Meeting adjourned at 4:10 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, January 22, 1973

The meeting was called to order by Chairman Tillion at 3:35 p.m. in Room 100 of the Assembly Apartments. Present were McVeigh, Chance, Orsini, Tillion, Malone, and Kaden.

Selection Att. Gen.

The first item for discussion was HJR-9 Selection of Attorney General and district attorneys. Attorney General Havelock testified against this legislation. He felt it would greatly disrupt his office if it were passed. He expressed the opinion that the Legislature should use their powers of confirmation of the Governor's choice more fully if they were dissatisfied with the performance of that office. HJR 9

Mr. Havelock gave examples of how attorney generals were selected in other states. Six states have appointed AG's. Maine selected their AG through the Legislature. Tennessee selects their AG through the Supreme Court. Mr. Havelock felt that the proposal of HJR-9 was similar to the one for Tennessee.

The attorney general explained that his main duties were being a barrister and a solicitor for the Governor and for administrators in state government. Rep. Orsini asked what these two terms meant. Mr. Havelock explained that a barrister pleads cases in court and a solicitor only gives advice. Mr. Havelock said that he does both of these things in his position. He does not ordinarily perform these services for individuals in the state.

Further hearings will be held on this measure, at which time the sponsors of this bill will be heard.

McVeigh asked Mr. Havelock if it wouldn't be wiser to concentrate on an ombudsman rather than electing the AG. The AG felt there was a great need to have an independent critic of the executive branch and that an independent ombudsman would serve the role better than an elected AG.

Privilege of reporters

HB 84 - Privilege of Reporters - was the next item for discussion. The chairman reported that Mr. Tobin would be unable to be at the hearing due to previous commitments in Anchorage. He did say that there could be a misuse of these privileges and felt it should be limited to state and federal employees in sensitive positions. Rep. M. Miller attended the meeting but would like more time to prepare material for a presentation. Rep. Meekins asked the chairman if he might point out how the bill was written in its present form. He also would like to do more research on the matter. HB 84

Rep. Meekins noted that we are going through stages in our Nation where the press is going to be more and more assaulted. The Supreme Court has stated that the constitution does not

Privilege of reporters

specifically guarantee reporters the right to keep secret the sources of their information. They also suggested that it would be in the state's right to legislatively regulate this. California just passed such a bill. Eighteen other states give qualified protection. The Peter Bridge case was handled in a state that had qualified protection law. It is apparent that we need something more. He gave the example of two people who were suspected to have given out information and they were fired without cause. If we don't do something about this, the sources of information will dry up. Rep. Meekins feels this will be one way to safeguard freedom of the press.

There are conflicting rights that need to be protected. There is the right of the accused to have all information available brought out at the trial to protect himself, and the immunity of the information source, such as doctors testifying against patients, and lawyers against their clients, for example. This doesn't happen, so why not allow the same immunity for reporters and their sources of information.

Rep. Meekin felt that possibly the bill should be rewritten, but that the intent should remain the same.

Rep. Banfield arrived and announced the death of former President Lyndon B. Johnson.

McVeigh moved that the meeting be adjourned. There was no objection. Meeting adjourned at 4:17 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, January 23, 1973

Chairman Tillion called the meeting to order at 3:35 p.m. in Room 100 of the Assembly Apartments. Present were Orsini, Malone, McVeigh, Tillion, Banfield, and Kaden.

Interest Rates/State

SB 37

SB-37 - Interest rates charged in the State - was the first item of consideration. The chairman noted that there were quite a few people in the audience and wanted to know how many were to testify against the bill. Rep. Tom Fink, Speaker of the House, was the first witness. He was opposed to the bill as written.

Rep. Fink said the reason this bill was necessary, according to the sponsors and those in favor of the bill, was to raise interest rates to make more money available. It isn't that the bankers or those people charging interest need higher rates for profits to the extent that there is a problem that affects commerce, but that it was felt they needed to keep commerce going.

Mr. Fink did not think that we should raise the rates if we were going to keep the provision that requires those who wish to get started in the banking business to have to show "convenience and necessity". He does not think it would be a responsible government that would allow a franchise for a bank and then take away interest rate restrictions so they could charge whatever they wanted for their services.

Interest rates are high or low according to the amount of money available. Rep. Fink feels that interest rates should be tied to something like HUD plus 1%. This would allow the rates to change whenever conditions warranted it. It would also provide a control of sorts. He prepared an amendment that would cover these thoughts.

Mr. Fink said that when interest rates increase, the consumer is the one who pays. He gave an example of one rental complex that would have to increase the rent $75 per month per unit to meet the increased interest costs. He also noted that it left only two elements in our society: the rich and the poor. We no longer would have a middle class in our society.

The Speaker said that the bill we were considering would regulate only one- to four-family units. The legal rate of interest would be 9% on the one- to four-family units and no limit on other forms of interest. (Chance arrived 3:50 p.m.)

McVeigh noted that individual states may or may not have a low covering interest rate creates a problem. He asked Mr. Fink if he would like to see a federal control affecting all states. Mr. Fink felt this would be one way of solving the problem. If the federal government would establish a policy then they ought to take the profit out of it. McVeigh agreed with this.

Interest Rates/State

Mr. Fink felt that the lower rate this state can establish without hurting commerce is the one we should adopt. He noted that if the State of Alaska put a substantial amount of money, say, like $100,000,000 into loan funds, the rest of the lending community would have a difficult time to successfully charge more than 8 per cent.

Mr. Randolph mentioned that according to the Speaker's testimony, that there was a large bank that was making 20 per cent. He wanted to know if most of that money was not made through investments rather than loans. Mr. Fink thought that was probably true, but he had no break down of figures on this aspect.

Mark Jensen, representing the Associated General Contractors, was the next witness. He testified in favor of the bill. He stated that the association endorses this bill and urges its speedy passage. He said his chief concern was commercial and corporate loans and he did not want to involve himself on housing loans. He noted that when meeting with the Monetary Committee three years ago that most of the 28 people expert in their field said that if Alaska wanted to have a supply of money for expansion they would have to take the ceiling off interest rates. Mr. Jensen said that Rhode Island has had a ceiling of 21 per cent for many years. Also Washington state has a 12 per cent ceiling. There is one thing that has not been mentioned and that is the element of risk. This is where the supply of money is needed. You have two borrowers and both have legitimate contracts. One has a good credit record and the other is just starting out. You have to make the choice between the two. You should be able to charge more interest for the higher risk loan.

Mr. Jensen said that the money market in the United States is partially reflected by the federal reserve. This is particularly shown in what they take back from the national banks. The amount they now take is 12 per cent and this amounts to billions of dollars that they can regulate. My point in mentioning this is that the money market is changing every day. That is why he feels it is wrong to place a ceiling on interest rates.

Mr. Jensen provided the committee with an article from Federal Banking Law Reports and one from Kiplinger Newsletter. Both will be placed in the file.

Rep. Chance wanted to get statistics on the amount of new money made available in the state when the interest rates were raised three years ago. Rettig felt that this state would have been completely out of the market had we not raised the rates at that time.

Annabelle Simmons, Juneau, commented from the audience. She said that this is a state of very small communities and that Behrends Bank does not make loans to small investors. This leaves only one bank that makes housing loans so rates here would automatically increase.

Interest Rates/State

Hayden Kaden asked Mr. Fink what affect this bill would have on Section 45.45.020. He felt that this would negate any changes that might be brought about by this bill. This will be researched. It appears that if there is no limit on interest rates, you have violated Section 020.

Mr. Jensen said that he thought there was a list out from last year that shows the states that have no ceiling on corporate and commercial loans. He thought there were around 38 states. Mr. Fink said he would like to see this list. (McVeigh left at 5:00 p.m.)

Senator Rettig was the next witness to testify. He was in favor of this bill. Mr. Fink asked Mr. Rettig why he objected to using the HUD rate plus 1%. He said that if you did this that presently HUD is rated 7 plus and adding the other points you would have 12% and this is too much. Mr. Fink said that you only add 1 per cent to the HUD rate which would be about 8 per cent. This way, if HUD rate goes up, so will the conventional rate. Mr. Rettig felt this could be done. He did not like to see this arrangement, though. Mr. Fink said the reason he tied it to HUD was that they were involved in residential housing.

Chairman Tillion noted that there was no new material being brought out. He asked for a motion to adjourn. Chance so moved, no objection. Meeting adjourned at 5:20 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, January 24, 1973

Chairman Tillion called the meeting to order at 3:43 p.m. in Room 100 of the Assembly Apartments. Present were Malone, Tillion, McVeigh, Chance, Banfield, and Kaden.

Selection Att. Gen.

HJR-9 - Selection of Attorney General and District Attorneys- was the first item for consideration. McVeigh noted that there was need for an amendment or a committee substitute to cover the term "Secretary of State" which is now "Lieutenant Governor". The chairman asked if there was any objection to this proposal. Hearing none, a committee substitute will be prepared to cover this error. The sponsor, Rep. Warwick, testified in behalf of this resolution. He said that he was not an attorney and he did not know exactly how the AG's office operated. He said this bill was introduced by request--lawyers and DA's feel there is a need for this. They feel their problems would be solved if the AG were elected. Rep. Warwick felt that the governor should appoint the AG initially from a list submitted by the Judicial Council, then the Legislature would confirm this appointment. After this, every so often they would be put on the ballot to see if they would be retained or not. HJR 9

Committee members felt that an elected AG would not serve the purpose for the Governor. And, in fact, would be in competition with the governor and would use this office as a stepping stone to the Governorship, or to aid the AG in his political efforts. They also felt that the AG's opinions may be made because it was politically expedient to do so instead of benefiting the people of the state. Also, a man could get in this position, and be reelected. It would be very hard to remove a man from this position. This would cause a problem when and if the governor would change. He might not be compatible with the new governor. Since the AG appoints the DA's, this would make this his own organization. This could be damaging to the state.

Banfield noted that when you elect the AG, it is not because of competence, but on how good of a campaign he can put together, this is where you will have your problems. We have problems, you will have problems with any system. McVeigh brought out that with an elected AG, you have produced a climate where coin venders and shady business operations can flourish. This should be avoided. They could contribute to the campaign and get their man elected.

Rep. Warwick said he did not know how to solve the problem of the lawyers and the DA's. He said they did have a problem in the field of prosecution. The main complaint seems to lie in the fact that the AG is the righthand of the Governor.

Most of the committee members were opposed to this legislation basically because it would disrupt the whole administration of state government. Rep. Malone felt that the simpler we could keep the system, the more responsive it would be to the needs of the people.

Selection Att. Gen.

HJR 9

McVeigh feels that the appointed system is best because it immunizes the local DA from the pressures that do come on him. Rep. Orsini noted that Rep. Hartig desired to testify on this resolution. He is in favor of a separately elected AG. He thinks he should run on the ballot with the governor, lieutenant governor and the attorney general. These three would then run the government. The chairman gathered from the consensus of the group that we should wait until Rep. Hartig can testify on this. We will wait until he requests that we bring this measure before the committee again.

Good Samaritan Act

HB 88

HB-88 - Extending Coverage of the Good Samaritan Act. Mrs. Banfield reported that she had talked to Rep. Ose on this bill. He said that he wanted to make sure that volunteer firemen were covered under this act. Hayden checked the statutes and found that they were already covered. Chance felt that this would be expanding the coverage too far. This will be held until further notice.

Grounds for Annulment

HB 102

HB-102 - Grounds for Annulment. Hayden suggested that this same language be added in the divorce section. After some discussion, it was decided to prepare a committee substitute. Banfield moves that Hayden draft a CS and include the divorce section. There was no objection; so ordered. When the draft is completed, it will be brought back before the committee.

Mandatory Imprisonment

HB 105

HB-105 - Mandatory imprisonment/felony. Malone reported on this bill. He said he found it difficult to find enough information on which to base a decision. He said that the sponsor could not meet with the committee today. Malone will check with Ose to see when he can meet with us. It will be scheduled at that time.

Burial of a body

HB 119

HB-119 - Burial of a body. There was a brief discussion on this bill. Banfield moved and asked unanimous consent to pass this bill out of committee with a "Do Pass" recommendation. There was no objection. McVeigh and Chance signed "No Recommendation".

Motor veh. Unregistered

HB 85

HB-85 - Motor vehicles/unregistered vehicles. The chairman explained that the way the law reads now the officer has to wait until the auto is actually moving on the highway before he can stop and ticket the individual. This allows him to ticket these cars in parking lots and other public places. Chance asked if tourists would have tickets placed on their cars. Tillion said they would be innocent. Chance said she did not want to see the tourists harrassed. Banfield asked how we were going to define "nonresident". Tillion said this would be anybody that holds a job in the state unless they are military. McVeigh noted that this only gave the officer the right to ticket the car. McVeigh moves and asks unanimous consent to move this bill out with "Do Pass". Chance objects in order to check the sections of law that are being amended. McVeigh amended his motion and moves that the committee put the bill out of committee. This motion passed. McVeigh then moved to put the bill out "Do Pass" Chance and Banfield objected. Chance signed "No recommendation".

Ombudsman

Tillion assigned HB-15 - Creating Office of the Ombudsman - to Banfield and McVeigh.

Chance moved to adjourn. No objection; so ordered. Meeting adjourned at 5:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, January 25, 1973

Meeting was called to order by Chairman Tillion at 3:40 p.m. in Room 100 of the Assembly Apartments. Present were Chance, Tillion, McVeigh, Banfield, Malone, and Kaden.

Mandatory Imprisonment/ felony

HB 105

HB-105 - Mandatory imprisonment/felony - was the first item of consideration. Mr. Olof Hellen, Assistant Public Defender, testified in opposition to this bill. He told the committee that Mr. Herb Soll, from the Anchorage Office of the Public Defender, had assigned him to testify on legislation pertaining to the activities of his office. Mr. Hellen noted that the bill is quite clear that after the first felony conviction there shall be no time suspended in any subsequent felony conviction. He felt this was too severe and took away the right of the judge to decide what was best for each individual. He felt that rehabilitation was more important than confinement in a prison. This allows the judge to take into account public safety and rehabilitation of the person involved in the felony. Mr. Hellen said that persons who had received aid from the Anchorage program, which included programs of training, a place to live, jobs, etc., have proved to be quite successful. These people do not end up back in the jail. He opposed this legislation and felt that the courts and the division of corrections would also oppose. After a brief discussion about sentencing procedures, Mr. Hellen gave the example of a judge who would impose some stipulation on the offender rather than a sentence. The offender would have to obey these rules or serve a certain sentence. This arrangement would not allow this any more. Tillion noted that this bill did not seem to allow for probation.

There are two factors that brought about this bill: (1) 60% of the crime in Alaska is committed by second offenders, and (2) some judges that let these people off with little or no punishment.

McVeigh showed that we always will have a problem trying to reach some kind of acceptable sentencing pattern. Some of the sentencing may not be what the public at large thinks it should be, he doesn't see any wisdom in the Legislature passing a bill like this. The pattern developed from a new system may be absolutely terrible compared to what we now have. He suggested that the problem may be solved by a bill now introduced in the Legislature to place the probation people under the direct control of the courts as opposed to the Executive Branch as it is now. On the subject of sentencing, he felt that there would be as many opinions as there were people in the room.

Mr. Hellen felt that there was a great need for consistency in sentencing. He gave an example of two young men who had committed a similar crime, were tried in different areas of

the state, had different judges, received different sentences, and ended up in the same cell.

There will be further testimony on this matter on Friday when we will listen to the sponsor of the bill.

Grounds for Annulment

HB-102 - Grounds for annulment. Hayden prepared a CS for this bill. Chance moved to adopt the CS and asked unanimous consent. McVeigh objected. There was some discussion with regard to the proper term to use "annulment" or "voidable marriage". Hayden showed that from the statutes that this applied to both annulment and divorce. McVeigh wanted to make sure that community property rights would be honored and not violated by dissolving a marriage in this way. Tillion brought out that this did not change the law. Chance said that if the terminology would be a problem, it is already a problem. We are only adding this language to existing law. Chance renewed her motion to adopt the CS; Malone seconded her motion and moved to sign out the CSHB-102 with a "Do Pass". There was no objection. It was signed out "Do Pass" unanimously. HB 102

Con. Pro. Office/Ktkn

HB-103 - Consumer Protection Office/Ketchikan. Rep. Gardiner testified in favor of his bill. He said that it would cost $80,000 to set up a separate office, but one connected with the DA's Office would cost about $27,000. There would be one para-legal investigator, working out of the DA's office, and he could use the DA's secretary, and there would be some travel involved. Banfield suggested that Gardiner talk to the AG and see if this couldn't be included in their budget. She said if this went to the Floor that every community would want such an office. Banfield suggested that this could be included in the AG's budget and Gardiner would have reached his goal without a Floor fight. Malone asked for some statistics on the Anchorage office. Gardiner said that they figured that they had saved the people about $6,000 to date. The office hasn't been in operation very long, so there are not many statistics available. Tillion felt that Banfield's suggestion of talking with the AG was a good one. Gardiner said that he felt Finance would pay more attention to a house bill. Malone asked Rep. Gardiner to get some statistics from the Juneau office, too. Gardiner will talk with the AG and report back to the committee before we do any more on this bill. HB 103

Interest Rates/State

SB-37 - Interest rates charged in the state. Tillion said the committee may want to amend this bill. McVeigh felt we should wait until Fink and Rettig have come to some conclusion. SB 37

Banfield moved to adjourn at 4:35 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, January 30, 1973

The meeting was called to order by Chairman Tillion at 3:38 p.m. in Room 100 of the Assembly Apartments. Present were Tillion, Orsini, Beirne, Chance, and Kaden.

Interest Rates/State

SB 37

SB-37 - Interest rates charged in the state. This was a continuation of the hearing on this bill. The entire meeting centered around an amendment proposed by Rep. Tom Fink. This included a proposed amendment to this amendment by Rep. Dick Randolph; with a further proposed amendment by Senator Ron Rettig.

Mr. Fink explained his proposed amendment. He said that the contract rate would remain at 8 per cent with two exceptions. One would be on one- to four-family units where it would be 3 1/2 percentage points above discount rates. This rate would go up or down according to the federal discount rate. The other would be for commercial real estate loans. It is 4 1/2 percentage points above discount rates. This makes the interest rate at 9 1/2 per cent on these loans. The last time this was discussed, there was to be a compromise worked out. The primary difference in the two opinions is that they wanted a general increase while Mr. Fink felt it should be limited to the two categories where it was needed. Randolph agreed with Tom, as he had been involved in the compromise discussions. He felt there was need for further increase. He didn't think this would help the problem of purchase of heavy equipment or things like this. (McVeigh arrived at 3:40 p.m.) Equipment dealers said they would invite more sales of their products if the interest rates were raised. At the present time, the volume of this type business in the state is dwarfed by that conducted from the lower 48.

Rep. Randolph feels that we would be remiss if we didn't amend Tom's amendment to allow for a 4 1/2 per cent floor on everything except the one- to four-family dwellings. He added five words " or a non-real estate loan" in section (2) after the word "above" on line 2. (Malone and Banfield arrived at 3:45 p.m.) McVeigh noted that this would be about the same as the law we had two years ago. Randolph said this was true. He said some of the people he talked to suggested that we go back to that law. Tillion noted that the old law allowed only 4 percentage points and asked if that would be satisfactory. Randolph felt this would be all right. Senator Rettig stated that it would not cover the commercial real estate area. Randolph noted that the only area of conflict between Mr. Fink and him was whether we cover non-real estate loans or not above the 8 per cent figure.

Dick Hall, National Bank of Alaska, was the next witness. He began his testimony by saying that this was not a banker's

Interest Rates/ State

bill but was designed to aid the borrower. He said that the Alaska banks are nearing a loaned up position. If that happens there will be no money available to loan. This is the banks problem. This condition leaves them in a weakened position. Mr. Hall explained the federal reserve discount rate and how it moves either up or down. The banks would prefer returning to the old law rather than accepting Fink's amendment. Orsini asked if we went to the 9 1/2 per cent rate, would the banks have sufficient money available to supply the loans. Mr. Hall felt they would. He felt that at 9 1/2 per cent he would be able to attract outside money.

Chance noted how we did the same thing two years ago, with the promise that we would benefit from that experience, but we have not been able to get this information. Mr. Hall said that the banks are making reports to the Department of Revenue but didn't think they would have the right type of information requested. Rep. Chance felt this information was needed in order to make a knowledgeable decision now. Mr. Hall felt that you could tell about this by asking if there were more problems before or now and whether or not there are more complaints from customers. Chance asked if there had been a slow down in construction or an increase in the unemployment rate. Mr. Hall said that there had not been, but that there was an increase of activities from stateside. He said that of $123 million in loans in Anchorage, all but $50 million was borrowed stateside.

Mr. Hall noted that the Director of Banking could show how Alaska banks rank in their categories and the return on investment capital. This comparison is with the federal reserve and considers the smaller banks, too.

Mr. Fink asked Mr. Hall what he felt would be his increase in deposit growth during the next year. Mr. Hall said he thought this would be between 7 and 8 per cent, noting that they were anticipating the start on the pipeline. He said that the increase would come from individual, partnership, and incorporation deposits. Mr. Hall stated that his bank would like to expand the amount of money they have in mobile homes. They can't do this at 8 per cent, but if increased to 9 1/2 they could take more of these loans. Chance complimented this witness on his candor and method of presentation.

Senator Rettig was the next witness. He commented on the Fink amendment and did not think we needed this because we do have a market for a particular category of single family dwellings at 8 per cent. This is through the Federal Housing Loan Corporation. He disagrees with Tom in the commercial real estate loan area. He wanted to put a dollar limit, say $25,000, to be added to Randolph's amendment. There was a great deal of discussion on this point. The banks would be eliminated from making small loans under $25,000 if this amendment were adopted. Mr. Hall felt it would be detrimental.

Interest Rates/ State

SB 37

Senator Rettig's wording as added to Randolph's amendment would read: After the word "above" insert and add "or non-real estate loans in excess of $25,000". McVeigh felt this was not acceptable. Rettig said that it had bad connotations and it did leave a gray area. Tillion said that this in effect would stop people from getting small loans. Randolph did not agree with this amendment. Mr. Hall reiterated that if this amendment were adopted, you would be eliminating borrowers. This is not what you want to do.

Tillion felt that a lot of this could be handled in another bill on retail installments.

The conversation went back to handling trailer and car loans. Mr. Hall said that his bank was buying the item direct using a direct loan and not buying the retail contracts.

Tillion brought up the subject of an expiration date. Mr. Fink wants to see an expiration date on this bill. Those in the banking business said it would be detrimental to them since they could not plan far enough ahead. It makes the banking community more unstable. No other state in the United States has such an expiration date. Mr. Hall said that it prohibits banks from going into long term transactions. Beirne asked how much damage had been done by the expiration date on the last legislation. Rettig said he couldn't give an answer on this. The reason is that each bank is different in their maximum loan levels. Randolph felt that it would be easy to document some cases where damage was done by the expiration last February 15. Beirne asked Tom what the effect of adding Randolph's amendment would be. He said it went beyond the realm of reasonableness.

The chairman said that we would not amend this bill today. We will meet tomorrow and complete action, but will not take any further testimony.

Meeting adjourned at 5:33 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, January 31, 1973

The meeting was called to order by Chairman Tillion at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, McVeigh, Chance, Malone, and Hayden Kaden.

Interest Rates/State

SB 37

Tillion noted that the committee would be considering the Fink amendment to SB-37 Interest rates charged in the state. The Randolph amendment and also the Rettig proposal had been rejected. There was one more point for discussion and that was a cut-off date. Tillion said there had been some mention of two years, but he favored a four-year period.

Malone felt that the hearings had been characterized by a lack of information on which to base a decision. For this reason, he suggested that the legislature by resolution establish an interim committee to make a study of this so we can get the information needed. Tillion said that the proposed committee would not come up with any more information than we now have. The banks won't let you look into their books. Fink's amendment would put it at 3 1/2 percentage points above the federal reserve rate for one- to four-family dwellings and 4 1/2 percentage points above on long-term real estate.

Tillion felt that we should probably allow mobile homes to go up to 9 1/2 per cent so the banks can participate in these loans. Under a conditional sales contract it is 18 per cent.

Malone distributed a sheet on the condition of banks in Alaska. This was prepared by the Division of Banking in the Department of Commerce. This was the only thing he could find in writing on the subject. From these statistics it appears that the banks are stockpiling cash. (Banfield arrived 3:55 p.m.) Tillion noted that you really couldn't make that kind of comparison.

Tillion asked the committee if they agreed on the Fink amendment down to Section 2. They did agree. Tillion said that he would like to use Fink's amendment for a committee substitute with no expiration date, or if an expiration date was desired that it be at least four years.

Chance felt that before taking final action on this that we should look into the credit retail installment bill. That way we could reach a reasonable conclusion on both bills. Tillion did not agree to this suggestion, as he said that Tom had an amendment for the installment bill, too.

Interest Rates/ State

SB 37

McVeigh felt that we should cover mobile homes. He thinks that 18 per cent is bad for the consumer. Tillion also would like it to cover mobile homes and heavy equipment. Banfield said this might cause a problem because you would have to define "heavy equipment". Tillion asked if it would be agreeable to only include mobile homes. There was no objection.

Malone asked that each portion of the Fink amendment be considered separately. Banfield moved to accept Section 1. There was no objection. Tillion noted that b(1) was acceptable. McVeigh moved to add mobile homes in Section 2. McVeigh, Tillion, Banfield, and Orsini voted yes. Motion carried. Tillion said that "or mobile home" would be included in Section 2. Hayden then asked if we needed the same terminology as in the original where it used the per annum rate charged by the federal reserve district. Tillion said this should be included. Malone thought we should say chattel mortgages or equipment. Banfield felt this would be better than saying mobile homes. If we do this then it wouldn't affect the mobile homes that are on real property. McVeigh suggested that we use the term "chattel mortgage". Hayden felt this would work best. There was no objection to using this term. McVeigh moved to accept the Fink amendment as amended by the committee. There was no objection. Hayden will prepare a committee substitute. He also mentioned one other point. In the original SB-37 there was a part that says that the notice would be provided by the Department of Commerce. This is not in this bill. Banfield felt this should be included. Hayden felt that a new section (d) would be necessary to cover this. This was agreeable to the committee. McVeigh asked Hayden to check the repealer to make sure this was all right. The committee substitute will be brought back before the committee tomorrow.

McVeigh moved to adjourn. Meeting adjourned at 4:45 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 1, 1973

Chairman Tillion called the meeting to order at 3:45 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, McVeigh, Malone, Chance, and Kaden, who is legal counsel for the committee.

Interest Rates/State

SB 37

SB-37 - Interest rates charged in the state - was the first item of discussion. Hayden had prepared two committee substitutes. The reason for this is that there was a problem with the language about the prevailing rate of interest. He talked to Mr. Fink about this and he said they set the rate at any time and not just quarterly. All the banks know what this rate is anyway so it doesn't have to involve the Department of Commerce necessarily. Orsini said he wants to have it outlined on a quarterly basis. McVeigh felt that the two-page CS is more precise. Tillion felt that it wouldn't matter much since interest rates will be going up anyway.

Hayden mentioned the comma after loan and wondered if it meant something specifically. McVeigh said that the comma was necessary and Tillion thought it should be inserted to correspond with the original SB-37. Hayden noted that this was not in the original bill but that it was necessary. McVeigh said that it made a lot of difference. The committee decided to put the comma after "loan". It was decided to accept the two-page CS that Hayden prepared. (Banfield arrived 4:00 p.m.) Banfield moved to strike mobile homes and the expiration date of January 1, 1976. Orsini asked to have the question divided. Motion now was to strike out the four words "on a mobile home". Motion carried. Chance voted to leave this in.

There was further discussion with regard to the expiration date. Tillion suggested that we use the same language as in the original bill for the cut-off date. Banfield was not in favor of having a cut-off date. (Beirne arrived 4:05 p.m.) Further discussion on the date showed that we should follow the date structure of the last law, namely, February 15, 1976. The committee decided to have a cut-off date, but Tillion felt it should be of longer duration. He suggested 1978. It was agreed that it should be in the second session of a legislature. Orsini moved to accept February 15, 1976. Chance, Malone and Orsini voted for this date. Motion failed. Tillion asked how many wished to have 1978. Tillion, Beirne, Banfield, and Chance voted for this date. Motion passed.

Hayden said it would be difficult to add a new section at the bottom. The committee asked Hayden to work this out and bring back the CS by tomorrow morning. Beirne moved this bill out of committee. Chance objected. There were five "Do Pass" votes; Chance and Malone voted "No Recommendation".

Cook Inlet Submerged Lands

HJR-10 - Lower Cook Inlet Submerged Lands - was assigned to McVeigh. The committee looked this resolution over and felt they could put it out today. Chance moved and asked unanimous consent to move this resolution out of committee with a "Do Pass" recommendation. There was no objection.

HJR 1(

U.S. Terr. Boundaries

HCR-26 - U.S. Territorial Boundaries. Rep. Hartig wanted to be heard on the resolution. Tillion explained how the Geneva Conference allowed boundaries to be determined. He also said that this resolution made mention of the Norway Fisheries case. There was no objection to putting this bill out. It was signed out unanimously "Do Pass".

HCR 2(

Chance moved to adjourn. No objection. Meeting adjourned at 4:38 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, February 2, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were McVeigh, Tillion, Orsini, Malone, and Hayden Kaden.

Healing Arts

HB 32

The first item for consideration was HB-32 - Healing Arts. The prime sponsor, Dr. Milo Fritz, testified in behalf of this bill. He said that his reason for introducing this bill was that it has become increasingly difficult for unenlightened people to distinguish between for example, oculists, ophthalmologists, Doctor of Osteopathy. It is hard enough to pronounce these titles, let alone know what they mean. This bill requires truth in labeling. He gave the example of a jar of jam. One is artifical coloring, preservatives, etc., and the other is the real thing. If you don't care about that, it is all right, but if you do care, then it is a different matter. There are so many specialists in the medical field today, that people should be able to tell by looking at your sign or your stationery what kind of a doctor you are. He gave an example of a two-week training period for persons who give hearing tests. They wear a white coat and people call them doctor. They are promised a certificate with a seal saying they are a Doctor of Audiometry. The average person needs to know that this person is not a doctor, say like an M.D.

McVeigh asked Dr. Fritz what the practice is now among chiropractors, osteopaths, and clinical people. He said that some of them used unnecessary initials. For instance, O.D. has several meanings. Tillion noted that Oregon and Washington already have laws similar to this one. McVeigh moves this bill out "Do Pass" and asks unanimous consent. There was no objection.

Relating to Guides

HB 1

HB 1 - Relating to Guides. Rep. Hartig testified in favor of the Resources Committee Substitute. This bill is designed to protect fish and game management. There was a change in the make-up of the board. At one time all board members had to have licenses. The committee felt that these resources belonged to all the people and not just the guides. The whole idea is to get competent people as guides in Alaska. They are going to be governing their own profession. Mr. Hartig thinks this is a good law. This meets with the Governor's criteria and the guides said they could live within this law.

The next change was on Page 2, paragraph 4. This was added to give a list of all registered guides. A new paragraph (5) was added to compile and publish a record of registered or master guides who have completed a contract hunt in any of the three years immediately preceding the publishing of the record. The purpose is that when a person writes for a list of guides he can get the published list. This is because the best guides just don't advertise. They don't have to.

Relating to Guides

HB 1

What has been the experience in the past is that two or three guides will get all of the letters from persons wanting to be taken out on hunts, when we really have 150 or more available. Under this arrangement, when Fish and Game gets letters, they will only be able to send them a list of registered or master guides, with no comment. There will be an asterisk next to the name of a guide who has contracted a hunt within the last three years.

There was a change in the qualifications clause. Some people are fully qualified and are master guides. Now, they will not have to serve the three-year apprenticeship. This is on Page 6, Line 24. Tillion noted that he still had to take the examination but he wouldn't have to have guided for three years.

Orsini asked if you were reprimanded by the board, would you be taken off the master guide list and put on the registered guide list. Rep. Hartig said if you had committed some illegal act, you would lose your license period.

Hayden asked about section 150. He felt this was too severe to make a registered guide or master guide criminally liable for the acts of his agents. This may or may not be with his knowledge. Tillion thought this was standard say for para-medics. McVeigh said this was for civil acts but not for criminal acts. This is under 16.48.150. Rep. Hartig said the reason for attaching responsibility to the master guide or registered guide was that when they send out an incompetent person and he should make a bad decision and someone got hurt, then you need to hold the master guide responsible. He felt that maybe this could be clarified. Tillion didn't think it would hurt anything to leave it in. McVeigh objected because these included violations of a federal or state statutes or Game regulations. Some of these are penal statutes. Hayden felt we should tie it to the section on guides by saying this only applied to Section 200 of this Act. Hayden felt that common law would take care of the civil and criminal conspiracy. It was agreed to amend the Resources CS by adding after the word "responsible"; "under sec. 200 of this chapter"

Orsini asked Rep. Hartig what opposition was there to this bill. He said the guides want it and the people need it.

Keith Specking arrived just in time to say a few words in favor of his bill. He said the bill has cleared two previous years in both the House and Senate. This is essentially the same bill. Malone moved to send this bill out "Do Pass" as amended. This was the CS for HB 1. The vote was unanimous.

Meeting was adjourned at 4:15 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, February 5, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, Orsini, McVeigh, and Kaden.

Open to Entry Lands

HB 73

The first item for consideration was HB-73 - Open to Entry Lands. Rep. Warwick, the sponsor, attended this meeting to testify in its behalf. He said that under this program now any resident of the United States can come up here and stake a few acres that the State of Alaska has. Since the land belongs to the state, it should be restricted to state residents. Mr. Warwick also noted that ads are published in national publications telling about this land. Tillion said some have only been here 30 days and have filed for this land. Banfield gave the example of soldiers during the war filing on such land; then losing interest and leaving the state which left this land tied up.

McVeigh commented on (3) on Page 3. He felt it was more legally correct to say "is not claiming". There was no objection to this amendment. McVeigh felt that we should tie residency down a little closer. He felt there were too many arguments about residency as opposed to domicile. McVeigh thought we should use a residency requirement of one year or maybe six months. He also felt that we should give a better definition of what residency means. Tillion said we should add: "has been a resident for one year in the state immediately preceding his application for lease." This will be added as (3) and the original (3) will be renumbered as (4). (Malone arrived at 3:50 p.m.) McVeigh moves to adopt all of these amendments. There was no objection. So ordered. Orsini moved to put this bill out as amended with a "Do Pass" recommendation. This was signed out unanimously "Do Pass". McVeigh requested a letter from the people that administer these lands giving their view on this bill. Tillion will phone them on this matter.

Minors on Licensed Premises

HB 160

The next item for consideration was HB-160 - Minors on Licensed Premises. The chairman said the sponsor didn't feel it was necessary to appear before the committee since this was a simple bill. Tillion said that he had checked with the ABC Board and they recommend this bill. The trouble they have been having is that one person is 19 years of age and he or she brings a lot of friends that are much younger. This makes it difficult for the management. Banfield noted that she remembered the reason this was put in there was to cover the young people working in the bar. (Chance arrived at 4:00 p.m.) Banfield said that we could pass bills like this and then have somebody pass some regulations that will

HB 160

Minors on Licensed Premises

make it so stringent you may even have to have written consent to take someone else's children with you when you go to dinner. This also precludes grandmother and grandfather from taking their grandchildren to dinner where drinks are served. These are usually the nicer places to eat, like hotels. Tillion felt these could be considered temporary guardians. McVeigh said this was not the case and would have to be the legal guardian. Tillion felt that we had a problem that needed to be corrected. Chance said all that was necessary was to enforce the law as it is now written. The establishments would have to call the minor's parents to see if they had permission to be there. Tillion said he would like to put this bill out of committee. Malone moves to report this bill out of committee with individual recommendations. Tillion and Orsini voted "Do Pass"; Beirne, Banfield, Malone, Chance, and McVeigh signed it "Without recommendation". (Beirne arrived at 4:15 p.m.)

HB 156

Appt. of Spec. Comm.

HB-156 - Appointment of Special Committees. This was Mr. Orsini's bill and he testified in its behalf. He said he had a series of rules changes that he was proposing and one pertained to a change in statute, namely the one on special committees. This will take the power of the presiding officer to appoint such committee and leave it up to the Rules Committee. It really doesn't make any difference. We could wait until the Rules changes pass and then we could look at this again. Tillion said he had no objection to moving this bill to Rules. Orsini moved to pass this bill out of committee. Banfield objects. She thought we should leave it in this committee until we see about the Rules changes. Malone seconds Orsini's motion. McVeigh noted that joint rules supersede the statute but they do not supersede the constitution. This bill was signed with individual recommendations. Orsini and Malone signed "Do Pass"; Chance and Tillion signed "No recommendations"; Banfield and McVeigh signed "Do Not Pass".

Malone moved to adjourn. Meeting adjourned at 4:30 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, February 7, 1973

Chairman Tillion called the meeting to order at 3:35 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Chance, Orsini, Tillion, McVeigh, and Kaden

Narcotics Division

Rep. Hartig attended this meeting to recommend passage of HB 175 - Narcotics/Division of state troopers - and HB 176 Appropriation for same. Mr. Hartig noted that anyone that was here last year, probably remembered the subcommittee on drug abuse that was formulated at that time. The subcommittee issued a report on drug abuse and the dangers involved. He offered a copy of this report to the chairman for any committee members who had not already received one. There is great concern about stopping drug traffic in the state. The Department of Public Safety and the DA's office say they don't have the money to do a good job. That is the reason for these bills. Rep. Hartig said that he had met with Colonel Dankworth and that he has come up with a proposal listing what it would take to curb the drug traffic. Mr. Hartig offered the committee copies of his proposal. This will be under the Criminal Investigation Board and will be staffed by five troopers and a supervisor. There is also scheduled purchase of additional dogs. They would plan on having dogs in Anchorage, Fairbanks, and Juneau and probably one dog that would be sent to different areas of the state. There would also be a dog at Tok to check persons coming into the state. This is really a message from the legislature that we are truly interested in stopping drug traffic and especially hard drugs. They will report back next session showing whether or not they have curbed drugs successfully or not. At that time if the program didn't work, it just would not be refunded the next year.

HB 175
HB 176

Chance asked if the commissioner could put this is his budget. She was told that the Governor only allowed maintenance budgets this year. No new programs would be funded. Hartig noted that money was the main problem and this was the only way this could be funded. This sets aside the money for a specific purpose and can be used for no other programs. Then there will be a complete report submitted to the legislature next year. She said that this bill was (HB 175) only the authorization and did not include the funding. Also, it does not have to go to Finance. There has been problems in the past where there has been an authorization but not any money to carry through. Tillion didn't think that Finance should get authorization bills because they could in effect veto them by just not funding them.

Orsini noted that the funding would occur on July 1 and the report would be submitted to the next legislature. He wanted to know if this was going to be enough time. Mr. Hartig said it would give an idea of how much progress could be made.

HB 175
HB 176

Narcotics Division

Rep. Meekins asked if it wasn't sometimes more reasonable to have a separate agency make the report. It appeared to him that they had a vested interest in how the report gave the statistics. It could possibly be a separate department in the agency that makes the report. Just so they are different from the ones that are conducting the program. He also asked what was covered under narcotics and dangerous drugs. Mr. Pat Wellington, Deputy Commissioner of Public Safety, said that this included everything except alcohol and tobacco. McVeigh said that he thought the new federal act specifically listed these drugs and gives the specific name for them. Hayden said they were listed in Chapter 17 of the Alaska Statutes.

Mr. Hartig noted that for several years there have been efforts on the part of various service organizations to stop drug trafficking. These programs have emphasis for awhile and then they would die out for lack of direction.

Chance asked if the dogs could sniff out heroin, too. Mr. Wellington said they could but that they were trained separately; one for marijuana and the other for heroin. Mr. Wellington explained that up until now the emphasis had been on patrolling around the highschools and picking up the individual who uses a cigarette or two. There has not been any big effort to stop the hard drug traffic because of lack of money to do the job. We want to direct our efforts to the person who is involved in importing hard drugs and those that make their living from this activity. He said he did not want to see a report come back next year showing 1500 arrests with 1495 being high school students. He said the report would more likely show five or six arrests with a large amount of drugs involved. You will have to rely on the policy of the Commissioner that we are going to do the job properly. Some of these people may have to be watched two or three years before we can make a purchase from them through our undercover agents. He said they probably would have an individual working in Seattle developing contacts. It is necessary to pay especial attention to our borders.

Chance felt that if this were put into law and a narcotics division were formed that they should place their emphasis on heroin. Mr. Wellington said they had planned on both heroin and marijuana. Chance then asked if there would be any problem with the Division of Personnel as regards the undercover agents. Mr. Wellington said this could be a problem but that they would plan on hiring on a contractual basis. If this was true, Chance then asked if the persons hired would have the benefits of the merit system. He said they would. Hartig said it would be necessary to do this by contract because that was the only way they could keep things top secret. Mr. Wellington said that the personal contracts

HB 175
HB 176

Narcotics Division

would go to Administration and the Department of Law prepares the legal contracts. Another comment is that the Division of State Troopers will be handling the situation, but the Commissioner will be the one making the report to the Legislature. Colonel Dankworth will not be making the report. McVeigh said he was in favor of this bill but that he wanted the police to realize that the drug problem will not be solved through enforcement. We want the police to assist in treating the problem, also. Hartig said you would drive up the price of drugs if you are willing to take a chance in turning in the big dealer. Along with this is a program for stringent sentencing and a rehabilitation program. Chance said that was her objection to the report submitted last year. It was only on the arrest level but nothing on rehabilitation or prevention.

McVeigh asked Mr. Wellington if the Governor supported this bill. He said he hadn't talked to him, but that the Governor is very strong against drugs and he felt he would support it. Tillion suggested sending the bill to Rules and having it held there until the appropriation bill was passed by Finance. He said he was reluctant to send the bill to Finance because they might hold it. McVeigh felt it really wouldn't make any difference in this case, whether or not the appropriation was passed because if this bill were passed it would not affect the public, only the department. They just wouldn't be able to set up their units.

The Anchorage Precinct #14 Chairman, Paul, asked the committee chairman if he could make a few comments. He said he would like to comment on the entry of hard drugs into Alaska. He said he knew people who used drugs and that he had never known of any heroin coming in at points of entry in Alaska. The supplies come in from Vietnam and Thailand through the military bases. He felt that unless you could take care of this on the bases there would be very little accomplishment shown. He felt this division could be used to harass people who use a small amount of marijuana for their own use. He felt it would also be an inconvenience to tourists coming into the state. Chip Thoma, with Paul, commented that the place heroin is coming in is in the body bags of dead servicemen.

Tillion asked Mr. Wellington how many heroin addicts we had in this state. He said it was about 100. Meekins felt it would be beneficial to have a letter of intent to make sure that this wasn't used to harass young people. There was some discussion on this point and Tillion felt we could write a report saying that the emphasis is to be on hard drugs and on large shipments of dangerous drugs. Pat Wellington agreed that a letter of intent would be a good thing. If a committee report is prepared then any member of the committee who wishes may write a minority report. Hayden will draft a committee report and bring it back to the committee for approval. The bill will be held in committee until the committee report is completed and approved. (McVeigh left at 4:30 p.m.)

Nomination of candidates

HB - 148 - Nomination and qualification of candidates. Orsini said they had talked about this in State Affairs and that they came out with an amendment. As it is now, the only time the Lieutenant Governor can take action is if he determines there is a discrepancy on the person's nomination. There is no provision for when a candidate doesn't meet the qualifications. That is the purpose of this bill. Discussion then turned to Page 3, Line 19--this mentions that a candidate has 10 days in which to answer. Mr. Orsini thinks it should say 10 days after receipt of the letter from the Lieutenant Governor. Tillion read the cover letter from the Governor which accompanied this bill. This will be scheduled for further consideration tomorrow.

HB 148

Sel. of candidates

HB-150 - Selection of candidates/special elections. This is to make it plain that the central committee as well as the convention can select candidates for statewide office in the absense of a specific party rule. Chance said this was what caused the confusion and said that they adjourned the convention without adopting the resolution giving the authority to the central committee for selection. Tillion said if they hadn't already endorsedtheir candidate for statewide they would have had to have a convention. Chance said that this gives it flexibility. This will be given further consideration tomorrow along with HB 148.

HB 150

Chance moved to ajourn at 5:00 p.m. There was no objection.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 8, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Orsini, Tillion, McVeigh, Banfield, and Kaden.

Narcotics Division

The chairman noted that we would be discussing the committee report on HB-175 - Narcotics Division/ Department of Public Safety. We will also consider HB 176 - Appropriation for same. Committee members read the committee report and did not agree on the last sentence. Tillion noted that we were sending the authorization to Rules and the appropriation to Finance. Banfield asked about the testimony from the day before. Tillion outlined what had gone on before and said that this operation is to find out where the hard drugs are coming from and nail the big importers. The regular day-to-day user is already covered under existing statutes. Tillion explained that it would take a lot of money to get some of the really big importers of hard drugs. It was decided that more work should be done on the wording of this report. McVeigh will work on this and report back to the committee on Monday. HB 17 HB 17

Nomination of candid.

HB 148 - Nomination and qualification of candidates. Malone had a question on 11. He felt this would be difficult to enforce candidates to follow party principles at all times. He would like to reserve the right to differ from the party at times. Tillion said there should be no problem because you sign a statement under oath. Banfield said she also objected to (11). Tillion didn't feel this was a tight as the committees members thought. He said there was a difference between principles and platform. HB 148

Banfield asked if (14) said you could run for two seats. Orsini said it meant Congress and State office. Tillion said we didn't want that. Tillion said (going back to (11) that when you get down to the part on petitions then it makes more sense. Mrs. Banfield was assigned to do further research on this bill.

Malone asked for an explanation of (12). Tillion said that one means that if you have to get a percentage of the voters before you can get on the ballot and you are in an area where the other party controls overwhelmingly, you might not be able to get a completed petition. McVeigh and Banfield will work on HB 148. Orsini said all the subscribers had to do was support the nomination, they don't have to vote for him. Banfield said she signed such petitions for people running for school board, or other office, all the time. It didn't mean that she eventually voted for them.

Orsini mentioned the policy of a life-long party member, filing with the other party in order to win the election. He doesn't think this should be so easy. Tillion said that in the past you could do this if you filed as an independent.

HB-150 - Candidates/statewide offices. Tillion said that this allowed the central committee of either party in the event of a special selection to do the nominating. Banfield noted that this was for statewide candidates only. Malone wanted to check AS 15.40.090. Hayden read from the statutes. Malone didn't think it was necessary to have direct nomination through the central committee and felt there should be a convention. Tillion noted that this was only to cover filling a vacancy. This would avoid two elections; the primary and then the general. If the vacancy occurs less than one month and more than three months before the next general election then it will be by petition delivered before September 2. He said he didn't really see any conflict. This allows the party central committee if the bylaws do not provide anything else. In the Senate there is no problem, the Governor just appoints someone to fill the vacancy. It is only for Congressman that you have this problem.

HB 150

Sel. of candidates

Malone said that he disagreed philosophically that would allow the central committee to make the appointment and not go to direct elections. Orsini moves HB-150 out of committee. There was no objection. Tillion, McVeigh, Banfield, and Orsini signed "Do Pass". Malone signed "No recommendation".

Banfield asked if party rules could say that we had to go to election. Tillion felt if the party said that, that would be what you would have to do. Hayden didn't think the state could be bound by party rules. (Banfield left at 4:30 p.m.)

Malone moved to adjourn. No objection, meeting adjourned at 4:45 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, February 13, 1973

Chairman Tillion called the meeting to order in Room 104 of the Assembly Apartments at 3:40 p.m. Present were Malone, Tillion, Orsini, McVeigh, and Kaden.

HB 23

Pari-mutuel betting

HB 23 - Pari-mutuel betting. This bill was taken up as a courtesy to Mr. Al Martin, manager of the State Fair at Palmer. He testified in favor of this bill. He said that all fairs in the state agreed to support pari-mutuel betting for horse races on fairgrounds. They now have decided to include sled dog races. This will be a benefit not only to the fairs, winter carnivals, etc., but in a few years would be providing a means of revenue to the state. This plan would include creation of a racing commission. He gave some examples of how this has worked out in the lower 48. California takes in over $40 million per year of which $6 million goes for the policing of pari-mutuel betting and part of the funds go into supporting their fairs. He said the State Fair Association felt they had an obligation to the state to support themselves. He feels that with this bill they may be able to do this. The money gained could be used in lieu of tax money to support fairs as is the case now. He said that Washington state funds from their pari-mutuel betting go to support their fairs. (Beirne and Banfield arrived 3:50 p.m.)

Mr. Martin explained that money placed in pari-mutuel betting is only paid back at a percentage of the winning wager. One percentage goes to the racing commission which does the policing, and one percentage should be tied to anything that the legislature decides. He envisioned the proceeds going for the funding of fairs in the state. Orsini asked Mr. Martin about the additional cost when you start getting into off-track betting and the beginning of a gambling type of function. He said they did not anticipate this type of betting but that this would be the duty of the racing commission. He said they only wanted to have on-track betting at the fairs. Tillion asked if this would be a year round program. Mr. Martin said it couldn't be because we never have enough snow on the ground all year round for sled dog racing and they would have the horse racing during the fairs. McVeigh said we only allowed dog racing, but no betting was allowed. Orsini felt that we should have a companion bill setting up the racing commission. McVeigh felt this could be done by appointment by the Governor. Banfield felt that it should be set up legislatively. Malone said he had received a letter from the Department of Revenue stating that the revenues from lotteries were not equal to the cost of administering same. He hoped that would not be the case with this program.

HB 23

Pari-mutual betting

The chairman assigned this bill to Malone and McVeigh for further research. Mr. Martin continued with his testimony. He said that at the present time the state fairs are non-profit associations and they had their beginning back in Territorial Days. There is an operating grant received from the state which the Fair must provide as an equal amount of funding. These funds must be spent in a specified manner. At the present time, the funds allocated in the Governor's budget for this has been reduced from prior years. We are having more fairs each year, but the funds are being reduced. He said they had received construction grants for buildings but he didn't think they could go on expecting financing for capital improvements. With this legislation he feels they could provide the needed funds. He said with pari-mutuel betting the funds from grandstand seats and entry fees into the races would provide them with the needed funds for operating costs and also to expand into other programs. Orsini asked what use was put to the fairgrounds the rest of the year. Mr. Martin said the schools were not using the grounds at the present time because there is no heat in any of the buildings. They do have indoor skating now but would like to expand community activities. The City of Palmer also uses the grounds for their Colony Days program. Orsini said if the purpose of the bill was to get the fairgrounds on a self-supporting basis possibly there are additional things that the manager could do to promote year round usage of the buildings. Mr. Martin said they were very much in favor of this. Orsini felt we should hear from people involved in law enforcement before we make the final decision on this bill.

HB 175
HB 176

Narcotics Division

HB 175 and HB 176 - Narcotics Division/State Troopers and Appropriation. Mr. Olof Hellen, Assistant Public Defender, testified in opposition of this bill. He felt that if this bill were passed, the committee should also appropriate monies to cover increased court costs, rehabilitation costs and employment programs for addicts. He reported that at a Drug Abuse Institute held in June of 1972 it was noted that in no case did they find the police fulfilling their assignment or being able to do what they said they could do in stopping drug traffic. He didn't think Alaska could change this trend by passing this legislation. You also get an increase in the heroin rate if there has been a shutdown because it becomes easier to obtain. Marijuana can be found by dogs and other means while heroin can be concealed much easier. The marijuana users then switch to heroin. Along with the increase in the use of heroin, you will find an increase in robberies and violent crimes to pay for the higher priced heroin. Along this line, you will have the increased costs of prosecution and defense lawyers, because these people have a right to defense. If you provide $500,000 for law enforcement then you will have to provide that much for Corrections, Department of Law, prosecution office, and Public Defender's Office. They will all say they need more money.

HB 175
HB 176

Narcotics Division

Chance asked Mr. Hellen if he had considered taking away the profit motive. Tillion mentioned the English system. Chance said this would solve the related crimes that are committed in order to buy the drugs. Mr. Hellen said that Alaska does not have an operating program of rehabilitation for addicts. Most emphasis is being placed on more law enforcement. McVeigh said there was a pilot program using the methadone treatment but Chance noted that this program had been underfunded. McVeigh said the problem was that the addicts were not required to take the methadone on the premises. Beirne said the major problem was the addicts became addicted to the methadone. She would like to see more emphasis on rehabilitative treatment or at least an equal amount spent for both.

Malone referred to the memo presented to the committee by Representative Hartig.

Beirne noted that this bill did not address itself to the postal system. She gave examples of how drugs can be brought into Alaska. She feels that the people using the postal route to bring drugs in are probably only small dealers. She felt if this bill passed, that we should put out a bill for rehabilitation programs which would be needed immediately. Beirne said she could see taking the amount shown in the memo for drug enforcement and then take marijuana out of it. She would then like to see the additional sum of $225,000 used for rehabilitation and prevention. Chance suggested the committee put in a CS for HB 176, then asked for time to have another bill prepared to cover the rehabilitation part. There was some discussion as to the effectiveness of rehabilitation programs.

Banfield moved that HB 175 be amended to include only narcotic drugs enforcement and that HB 176 be appropriately funded at $300,000 and have the committee substitues prepared and brought back to the committee for perusal. Orsini felt that Mr. Hartig should have been here because the memo might not reflect the true costs of this program. Malone felt that the department would spend the money any way they saw fit, therefore he felt a committee report should be submitted to show our intent. Tillion said there would be committee substitutes prepared. House Bill No. 175 would also have the title changed to read "dangerous drugs enforcement unit". House Bill No. 176 would also show this change. McVeigh will prepare the wording on the committee report. Banfield withdrew her previous motion and moved to change both bills by taking out "dangerous drugs" and asked unanimous consent. There was no objection. Committee substitutes will be prepared.

Malone asked that the committee further change the appropriation bill to be $350,000 instead of the $500,000. and so moved. He felt this would be a sufficient amount. Chance felt we

HB 175
H' 76

Narcotics Division

should ask Public Safety if this amount would be enough money to do the job. Then we could put in the appropriate amount in the bill. Tillion said when the Commissioner was here he said he couldn't do it for less than the $500,000. Chance noted that we are now limiting this to narcotic drugs so the budgetary requirements would be different. She felt we could ask for a memo stating what amount they needed under the program for narcotic drugs only. McVeigh felt that the Finance Committee could deal with that part of it.

Chip Tomah, Anchorage, asked if he could comment on this bill. The chairman permitted him five minutes of testimony. He distributed articles from two magazines to all committee members. He testified in opposition to the bills. He said the reason he opposed this bill was that he has not seen any indication that the state police, who are getting federal funds, are capable of doing what they say they want to do. He then reviewed the two articles from the magazines. He gave the example of trying to close off the Mexican border to drugs. They were unsuccessful. What it did do was cause the marijuana users to switch to heroin because it was easier to get. He said that from his experience in the Washington, D. C., area, he didn't feel the police could be successful unless they got black people to do the buying because they could get at the source more easily. He said that 90 per cent of the heroin addicts in Anchorage were black. He said if you wanted to approach the problem using the English system, then you should send a team over there to study the ins and outs of their program. It is more technical than it seems on the surface. He felt that the only way you are going to solve the drug problem is to have community control over the problem. This has to be supplemented by a good education system.

Discussion returned to the question of the appropriation. Malone moved to cut $500,000 to $350,000. Orsini and Tillion voted no. Motion passed. McVeigh read his committee report and this was passed by the committee. Banfield asked if a bill could be drafted in one day to cover the rehabilitation. Beirne felt that it could. Tillion noted that the CS's would not be ready until tomorrow anyway. Tomorrow we will have a motion to move this bill out of committee.

HB 92

Contractual Restric./ Int.

Chance reported on HB 92 - Contractual restrictions/interest. She felt the committee would need to have testimony from the banks, real estate agents, savings and loan companies, and attorneys that deal with contracts relating to sale of property. This prohibits banks from adjusting interest rates after an exchange of parties involved to take into account the rate of risk. (Banfield and McVeigh left at 5:30 p.m.) Malone felt this was pretty broad and didn't understand "contract" as noted on lines 11-13. Hayden said that it referred to selling or financing of real estate. Malone wanted to know if this would apply to an option to purchase real estate also. Tillion felt the prime sponsor should come over and give his reason for the bill. After that, we will have additional

testimony. Dick Hall will be gone about a week.

Beirne moved to adjourn at 5:40 p.m. So ordered.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, February 14, 1973

Chairman Tillion called the meeting to order at 5:15 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Malone, Chance, Beirne, Orsini, McVeigh and Banfield.

HB 175
HB 176

Narcotics Division

The chairman said that Mrs. Beirne had a bill ready to introduce. This was to cover the rehabilitation needed if we passed CSHB 175 and CSHB 176 for a narcotic drugs enforcement unit and an appropriation for same. Mrs. Beirne said she would like to include a paragraph to our committee report showing that the committee is interested in maintenance as well as law enforcement.

This meeting was for the purpose of completing action on House Bills No. 175 and 176. Banfield moved to pass the CS for HB 175 out of committee with a "Do Pass" recommendation. Orsini objected. This bill was signed out unanimously "Do Pass" after Orsini removed his objection.

Chance moved that the additional paragraph as prepared by Helen Beirne be adopted into the committee report. Orsini and Tillion voted no, but all the rest voted yes to this motion. Motion carried.

Banfield moved and asked unanimous consent to pass CSHB 176 out of committee with a "Do Pass" recommendation. There was no objection. All signed "Do Pass" for the CS except Joe Orsini signed "DO Pass" for the original bill.

Chance moved that the bill by Beirne be introduced by the Judiciary Committee and be accompanied by a committee report. She asked unanimous consent. Orsini and Tillion voted no.

Meeting adjourned at 5:35 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 15, 1973

Chairman Tillion called the meeting to order at 3:35 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Tillion, Orsini, Malone and Kaden.

HJR 20

Amend. to Amend &Revis Sect.

Representative Parker attended this meeting to testify in behalf of his HJR-20 - Amendment to amendment and revision section of the Constitution of the State of Alaska. He felt this resolution was necessary because as it is now the amendments are voted on at the next statewide ballot. At the urging of the Alaska League of Women Voters, he made this resolution to say it would be at the next general election. More people vote in the general election and the ballot is not so long. He felt there would be less chance of confusing the people on important issues such as changing the constitution. This would also give time for both sides to present the facts of the change. Malone felt that which ballot it would be included in was not the more important issue, but he felt the problem was lack of information at all. Parker felt with the longer period of time, people could be more informed. Malone was really concerned about lack of information of these matters and gave the example of residency of voters. People thought they were voting for one thing and it turned out they were voting for another.

Mrs. Hopkins, League of Women of Voters, said she didn't feel this would solve the problem of voter information. She was in favor of this resolution. Orsini commented that the League of Women Voters urged people to get out and vote, but he would like to see them urge getting informed on the issues, too. Mrs. Hopkins said her organization was responsible for the information that was provided. Chance moved and asked unanimous consent that this resolution be passed out with a "Do Pass" recommendation. Malone objected. He said the reason he objected was that he thought this would prohibit the Lieutenant Governor from calling a special election. If it was an important question that needed immediate attention, then he would not be able to hold a special election but would have to wait until the next general election. Chance suggested that we could amend the resolution to say the next general or special election. Parker did not agree with this as he said we were taking out the primary and this is what the resolution was aimed at. It was felt that the Constitution was working pretty well and they didn't think there would be any need for a change requiring a special election. Chance renewed her motion. All signed "Do Pass" except Mr. Orsini who signed "Do Not Pass".

SJR 15

NMFS surveillance

SJR 15 - National Marine Fisheries Service surveillance. The chairman explained this resolution and told how the data from the Japanese industry did not coincide with the reports received by Alaska. There is some worry that the

SJR 15

NMFS Surveillance

federal government will not fund enough observers to see that we get the full benefit of the treaty. This asks that the Coast Guard do some of the patrolling. He said there was nothing in the resolution that was not true. Orsini moved to delete the word "steadfastly" on Line 20. There was no objection. Amendment was adopted. Chance moved and asked unanimous consent that the committee put out this resolution as amended with a "Do Pass" recommendation. Everyone present signed "Do Pass".

HB 18

G.O. Bonds

HB-18 - Authorizing G. O. Bonds. The chairman noted that this is JoAnn Miller's bill that was pulled off the floor because it couldn't do what she wanted. One of the big problems was that the Department of Highways would be unable to list all of their projects without having a real run on the department. Chance said with these programs you have to have your funds in as long as five years in advance in order to get the matching funds. Orsini asked what other categories would have this problem. Chance said it was only Highways and hospitals. Malone asked about State Operated Schools. He said that they had a bond proposal on their last election ballot that was for SOS construction. One of the problems they had was that the programs changed. By the time the money became available for construction there may have been a change in location, program, or space requirements as when it was placed on the ballot. Tillion said that for airports, for example, he would like to see a list that would always be available. This way if there were changes made, there would be no new programs substituted for the original ones. (Banfield and McVeigh arrived 4:10 p.m.) We are working with what was prepared as a CS for HB 18. Malone was very concerned where we were saying this would not work for highways and hospitals but felt we might be leaving something else out. He didn't see how we could tie the monies down when at election time we have so little information about the bond issue and the construction. The only way to solve these problems of misuse of funds now is to take the case to court as a private citizen. Malone moved that the language contained in the resolution regarding transfer of monies be included in the CS for HB 18. Hayden didn't think that it was necessary to repeat the constitutional language in the statute in the CS.

Chance asked if this couldn't be done in the bond authorization bill. Tillion said this had been done twice and both times had been disregarded. McVeigh moved to table the measure. McVeigh, Chance and Banfield voted to table. Orsini, Tillion and Malone voted no. Motion failed.

Malone said because of lack of voter information he had to raise a couple of questions. Why is the administration spending money some place else? and (2) it says here the Lieutenant Governor shall prepare and issue and make available the statement of thescope of each proposal. We aren't getting these.

G.O. Bonds

Malone felt that tying down the projects is a separate question from the question of providing information to the voters. McVeigh noted that you did not want to do this on your bond authorization because it would be too easy to be in violation and when the projects run to five years, you wouldn't be able to make alterations. Malone agreed with McVeigh on this because he had seen some bond issues where it was impossible to spend the money the way it was intended. Malone withdrew his previous motion. He moved on CSHB 18 to strike all the bill after the word "project" on Line 18. Banfield asked what he would do about highways. Were they to list all of their projects? He amended his motion to start after "Alaska Statute" on Line 15. Orsini noted that on Line 13 "each project" was mentioned. The chairman assigned this to Malone and Kaden to prepare a passable bill. It was noted that the constitutional amendment would take 27 votes. Orsini moved to table the constitional amendment. There was no objection.

Malone noted that it was his intent to have information provided to the voters or electorate on the projects coming up and also he agreed that this was an unworkable thing to say that the money shall be spent on these particular projects and on nothing else in any case. Orsini said he only wanted it to show that if there were changes that there would be an explanation for same. Malone asked what part Legislative Budget and Audit could play in this. Tillion said this was a good idea and maybe they could say any changes would have to be cleared by the Budget and Audit Committee. Banfield said they couldn't give permission. Malone felt they did this without permission from anyone at the present time. Tillion said Kaden and Malone would work on this further.

Meeting adjourned at 4:30 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, February 16, 1973

The chairman called the meeting to order at 3:45 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, Banfield, McVeigh, and Kaden.

HB 92

Contractual Restrts./ Interest

The committee met to consider the bills sponsored by Mr. Fink and Mr. Huber. HB 92 - Relating to contractual restrictions/interest - was the first item for discussion. Mr. Fink said this bill was designed to make clear common law and if the AG's office was active in this regard you probably wouldn't even need a bill. Some institutions that extend credit put in the document language that says if you are going to sell you will have to have their permission. He gave the example of borrowing $40,000 from a bank and you want to sell your equity. You borrowed the money at 7 per cent. Whether or not you get this permission, they declare the whole amount due and payable. If they approve of the purchaser, they will rewrite the contract at say 8 1/2 per cent, and charge one to two per cent of the amount of the loan for closing costs. Up to this time, there haven't been any institutions that have done this, but they have threatened to do so. The reason this hasn't been enforced is that in common law there has been a restriction. Real estate must be freely transferable. He said he had personal experience along this line and before that it was a real estate man that called him about it.

McVeigh felt that if he loaned some money to an individual that that person should have the obligation to pay it back and should not be able to transfer his interest without his permission. Fink said he didn't intend for the first individual to be released, but only to allow him to sell to someone else and keep the first contract in force. Malone asked if this would include an option. Fink said he thought it would. He said he only had in mind real estate trust deeds, though. Mr. Fink said he didn't say you should have to release the original borrower but the original borrower should be able to transfer the contract without the institution asking for the whole amount to be due and payable. Orsini asked if he sold his mortgage to Mr. Fink, he has a low interest rate, would he still be liable. Mr. Fink said he would buy from Orsini because of the lower interest rate. He would give a quit claim deed subject to the mortgage. Mr. Fink would agree to assume the mortgage but if the payments weren't made both would be liable for the amount due.

HB 92

Contractual Restrcts/ Interest

Tillion asked what would be the case if the original borrower left the state. Fink said you could take him to court. He then asked Mr. Fink about selling his property to one person and then having the transfer made to a family with twelve children who would depreciate his property greatly. Fink said there was no protection against that even now. This wouldn't change any. McVeigh said the only relief in this instance would be in the courts where you could recover everything above fair wear and tear on your property. Tillion then asked what would happen if you knew the borrower was leaving. Fink said the banks cover their contracts only with the real estate, not the person. (Malone and Chance arrived 4:00 p.m.)

HB 93

Computation of Interest

HB 93 - Interest computation/extension credit. Mr. Speaker said this bill does what the law already provides for with respect to interest computation when there is an extension of credit. In precomputation of interest you are paying advance interest at a stated contract rate. In many cases you are paying interest in advance and this is all right. But, if I have an 8 per cent loan I shouldn't have to be 8 per cent on the balance as of say February 5 because it is not due until March 5. If I pay the interest in advance it works out that I am paying more than the 8 per cent as stated in the contract. He gave an example of life insurance. That is about equal to seven per cent but they say it is five because you do this at the beginning of the year rather than at the end of the year. What I am saying is that the effective rate you are paying should not exceed what it states in the contract.

This bill also address itself to another point. This is on Line 14 and concerns a 365-day year. Many lending institutions use only 360 days but charge interest on a 365-day year. Banfield asked if we couldn't put it in the bill that you couldn't precompute interest rates. Mr. Fink didn't think we should do that. Malone asked if there was a definition for "financial institution". McVeigh felt we should have one.

HB 95

Confident./ Bank Records

HB 95 - Confidentiality/bank records. Mr. Fink said that Mr. Ehrich would carry this bill. This has been before the legislature before and it has never passed the House. This says banks may disclose credit information about their depositors but is not mandatory. Now that we have truth-in-lending it is a more favorable time for this. Two years ago you couldn't look at a person's credit rating. Things have changed. They have to show you the basis upon which your rating was established. Sometimes it has been based upon error, but now they are supposed to correct the error when shown the proper proof that it is in error.

HB 95

Confident./ Bank Records

There is another part to this bill, too. This is that you only hurt the borrower when you can't get credit information by telephone. If I have to wait to get a credit rating by mail and someone wants to borrow $300, I would just tell them to forget it. Orsini asked if this will make it the same for lending institutions now as it is for the banks. Mr. Fink said that banks are the ones that won't do it and they say the reason is because of the way the law is written now. They say if we change the law as this bill does, they will begin doing this. This is not mandatory.

HB 98

Deliquency charges/ Loan Exten.

HB 98 - Delinquency charges/loan extension. Mr. Fink said this bill is to cover the problem of late payments. The lending institutions give you 15 days before they make a late charge assessment. Many times the late payment is not the fault of the payee. This is due to many banks having the policy of taking care of window payments and mail payments are processed as time allows. In Alaska we have the problem of slow mail, too. In either event the late charge is assessed. If you have a $300 house payment to make and it is not processed until after the 15-day period then you are assessed a $15 late charge. This can really add up. McVeigh asked if there was quite a bit of this going on. Fink said that Mr. Hall said if we passed this bill, they wouldn't change their bank policy but just extend the date which they begin assessing the late charge by ten days. Fink noted that most contracts accept the postmark or date of mailing as the date to figure from but the banks say it is to be figured from date of receipt. Banfield asked if anyone had tried to read some of the postmarks we get on our mail here. Much of it is undecipherable.

HB 209

Judges/ Masters/ Disqualifications

HB 209 - Judges/Masters/Disqualifications. This law has been misused by some attorneys and it has been interpreted that you can have more than one disqualification. This bill limits the number of disqualifications and also it specifies when it can be done. McVeigh gave an example of this--the person was found guilty but before the judge could pronounce the sentence disqualification was used to get another trial. Malone asked about the propriety of allowing an oral statement to ask for the disqualification. He felt it should be in writing. McVeigh said this was used all the time. When you make a statement in court it is all put on record. This is the normal alternative to affidavits. Hayden said you would file an affidavit if you have the five days' notice that you will be having a certain judge. If for some reason you do not get the notice, this is when you make the oral statement. Ordinarily you can make this known prior to the trial. Malone asked if it was clear that there be no more than one challenge. Fink said that now the law says the plaintiff, his attorney, defendant, and his attorney can make the challenge and if you have a multiple case there would be more. This bill clarifies that point. Fink said he had backup material from Judge Burke that he would provide for the committee. They have covered the

HB 209

Masters but Mr. Fink said he had no knowledge of any problem in that area. McVeigh will carry this bill.

Underground Utilities

HB 12

HB 12 - Underground utilities. Mr. Tillion said we had two letters on this bill in the file. He read these to the committee. (Beirne arrived 4:25 p.m.) The Commerce Committee cut the penalty clause down to one and one-half times instead of three times the damages. The chairman reviewed Commerce Committee amendments. There was some discussion as to the reason for the civil penalty. It was felt this would discourage some contractors from going ahead and excavating without getting a locate. They would have to pay the utility one and one-half times the damage to the utility but besides that would have to answer to the state for causing the damage. Just like a traffic ticket after an accident where you have injured someone or their property you are assessed a fine. Orsini asked if the state reimbursed the individual that had been without the utility. Tillion said no, but this was to deter the individual from doing this again.

Malone asked about Page 2, Line 26 where it mentions the requirement for a vertical locate not to exceed one foot. He felt that the horizontal locate should also not exceed one foot instead of two feet. As an engineer, he didn't think one would be any easier than the other and if they did vary then it would not be the contractor's fault. He felt this would impel the utilities to be more careful when placing their lines to keep good records as to location. He said horizontal line measurements would be easier to locate than vertical. Malone moved to change this on Line 26, Page 2, to read "within 12 inches" instead of "24". There was no objection. Tillion read the letter from JoAnn Miller with her suggested amendment. This was adopted by the committee. A copy of the letter is in the file. To include those that are not public utilities was up to the committee. Tillion said that Kenai moves their products through their own lines. Malone said he didn't see the need for a civil penalty if this was a private company. Tillion noted that it was the inconvenience to the customer that we were concerned with.

There was some discussion about the length of time that the utility company had to provide the locate. It was felt that four hours was too short. (Beirne left at 5:00 p.m.) Malone said in ordinances they usually provide 24 hours. Tillion asked if we wanted to say "reasonable time to cover these extenuating circumstances". This is to cover rural areas. Malone said that the contractor usually waits until the last minute before he tells the utility. Malone moves to amend "four hours" to "16 regular working hours". That will give them two days to locate. There was no objection. So ordered. Tillion said this would be put out as a Committee Substitute. Malone will carry this bill. The CS will come back before the committee for signatures.

Meeting adjourned at 5:10 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, February 19, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Orsini, Tillion, McVeigh, Malone, Chance, and Kaden.

Notice of new regs.

Mr. Tillion asked the committee if they would like to introduce a bill which would require commissioners to give notice of regulations before they go into effect. This states what you will have to do before you can adopt a regulation in a department. McVeigh asked if this covered emergency regulations. Tillion said they would still have the right to issue these. The chairman said that he would like to introduce this bill and submit it with a committee report to be signed out today. Malone moved to sign this bill out with a "Do Pass" recommendation. Chance seconded his motion. (HB 247) All present signed "Do Pass". (Banfield arrived 3:45 p.m.) HB 247

G.O. Bonds

Malone was assigned to HB 18 - Authorizing G. O. Bonds so he explained the CS as prepared by him and Hayden. He said there was substantial change from the original bill. Now in Section 1 the Lieutenant Governor will provide general information on major projects to be placed on the ballot so the voters can make their decisions. Section 2 adds an additional duty to the Legislative Budget and Audit Committee. They will have to approve or disapprove the transfer of funds in a particular bond issue. Now there is no answering to the public at any time about the use of funds that were voted in in bond issues. They even change the use to some things that are entirely new projects. This gives a check on the executive branch when the legislature is not in session. Malone did not feel that this tied the administration's hands, but did give some measure of control. This way the people would be able to know the reason for transfer of funds on projects. Section 3 says that the GO bond bill will show the scope of each project. HB 18

Banfield said she was not prepared to give Budget and Audit Committee that kind of power. McVeigh said a review by this committee will not be able to halt projects. Tillion said it just lets the legislature know about it. There was some discussion relating to section 1 and section 3 having to say the same thing. Malone said this bill only says they have to give out the information with the sample ballot and this information wouldn't appear on the ballot unless the legislature so directs. Chance asked if there was any bond counsel in Juneau. She felt she needed someone knowledgeable to know what affect this would have on the state's bonding ability. Tillion said we have specified these things before but they have been violated so he feels that a review by Budget and Audit would give some control to the legislature. Tillion said he had talked with the Commissioner of Highways and this was all right with him. He only said that he wanted the bill to say that the money was for funding say two years of their five

HB 18

G.O. Bonds

year program. Malone felt this power should be given to the Budget and Audit Committee because they deal with money matters. Chance said she would rather see it placed under the Legislative Council. Tillion said he felt it fit better under B&A. He just thinks that the legislature should have their say in these matters and it didn't really matter which committee was delegated to do this. Chance said that B&A handles Title IV A funds so this should be in their line of business. Legislative Council deals mainly with policy matters. McVeigh said the review really didn't make that much difference in state business because the governor at the time will use Executive Order #20 and do whatever he wants anyway. He felt that it should be left in B&A.

Banfield asked Hayden what his legal opinion was on "approval and disapproval". She noted this is a power that they have never had granted to them before. Hayden didn't know what affect this would have but that the bond bill would have to be followed. There would be specific language as to how the bond monies would be spent. Tillion said that we had HB 18 taken off the floor because highways could not live with it and now we have prepared this and they say this will be all right. This doesn't give away all the authority of the legislature. Banfield asked what you could do if there wasn't enough money to complete a project. Malone said if you had three projects then you would drop one of the other two. This is when you would transfer money from one project to another but this would not allow to substitute an entirely new project. Chance asked if this had been submitted to bond counsel for comments. Tillion said this had not been done. Malone moved to adopt CSHB 18; there was no objection. Orsini moved the CS out of committee. No objection. The bill was signed out "Do Pass" except for Chance and Banfield who signed "No Recommendation".

HB 12

Underground Utilities

HB 12 - Underground Utilities. This bill has been discussed previously but the committee wanted to see the CS before it was signed out. Chance asked for an explanation on Page 2 about the damages. Tillion said this would be actual damages but you could then sue further for interruption of service, etc. They couldn't claim loss of revenue say for loss of telephone service but only for the inconvenience involved. Chance said this referred back to 610 and there was no plan to have to show neglect. There was some discussion on why the civil penalty was in this bill. Tillion said it was to discourage indiscriminate disruption of lines by some contractors. Orsini moved to accept the CS. McVeigh seconded. There was no objection. Malone moves the CS out with a "Do Pass" recommendation and asks unanimous consent. Chance objected but will vote "No recommendation".

HB 148

Qualification of Candidates

HB 148 - Candidates Qualifications. A CS has been prepared for this bill and Mrs. Banfield said this was worked over with Mr. Ray Preston from the AG's Office. She explained

HB 148

Qualifications of Candidates

the changes made in comparison with the original bill. The letter from the AG's office will serve as backup material for this CS. There was some discussion on (11). McVeigh didn't want a congressional candidate also running for a state office. This brought a legal question into his mind on whether or not deletion of that set a condition upon which one will run for federal office. By deleting that language it could be interpreted that if they want to run for a federal office they can't run for a state office. Tillion said this was upheld by the Supreme Court in New Mexico. The law said they couldn't run for state office at the same time. Malone questioned the use of "may" on page 3, line 21. Hayden said this is a mandatory negative. Chance said that may was permissive but here it said may not which is a mandatory negative. Orsini noted that if the person is upheld in court his name will then go on the ballot. Banfield moved to adopt the CS. There was no objection. Banfield moved the CS out with a "Do Pass" recommendation. McVeigh seconded her motion. Malone signed "No recommendation".

Disqual. Judges

HB 209

HB-209 Disqualification of Judges and Masters. Tillion said there wasn't much objection to this bill but we wanted to have the back-up material. McVeigh has that material now. McVeigh will carry this bill on the floor. It was signed out "Do Pass" by everyone except Malone and Chance who signed "No recommendation".

McVeigh moved to adjourn at 4:50 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, February 20, 1973

Chairman Tillion called the meeting to order in Room 104 of the Assembly Apartments at 3:40 p.m. Present were Orsini, McVeigh, Banfield, Tillion, Chance, and Kaden.

Limited entry/ Appropriation

HB 71 - Appropriation for the Limited Entry Commission. HB 71
Tillion said this really wasn't a matter for Judiciary and we should send it on to Finance. We will consider the bill but not the appropriation for limited entry. Tillion wanted to send this on without comment to the Finance Committee. Banfield felt that we should say whether we approve of the appropriation or not. Chance thought that it was sent here because of Section 2. Mc Veigh noted that Finance wouldn't do any thing on this until they get the Limited Entry bill. Malone moved to report this bill out of committee and asked unanimous consent. Chance moved that it be reported out without recommendation. There was no objection.

Contract. Restrictions/ Interest

HB 92 - Contractual restrictions/interest. Mr. McMurray HB 92
from the Division of Banking in the Commerce Department was invited to testify by Mrs. Banfield. He has suggested this might be more appropriately placed in Title 34 rather than Title 45. Title 34 deals with real estate and Title 45 deals with fair trade practices. (Malone arrived at 3:50) Tillion said this legislation supersedes it, so the property and the equity in the contract can be sold keeping in mind that the original party is still liable. They use this as a wedge to get a new contract and this results in higher interest rates being charged and the addition of closing costs. Malone said there was another aspect to be considered also. If a contract is transferred, or his equity is, he still remains liable for the contract. This can be both good and bad. Tillion said that the present law has been or can be used in bullying into refinancing. McMurray said the Supreme Court has recently ruled against such practices on the basis of ethnic reasons. Tillion asked about the people who take an option on something and then bring in a bull dozer and wipe out all the trees. McVeigh said Fink mentioned this in his testimony and that was why you would get a large down payment. This is all the cost of doing business. You have to take risks. Chance was concerned about the original borrower selling his equity to an individual who is a bad credit risk and one who would lower the value of your property.

Computation of Interest

HB 93 - Tillion said that this bill is to cover a situation HB 93
where in some instances the banks are using a 360-day year and are charging interest on 365-day year. Fink gave the example of a five-year contract on which you would be paying 25 days interest which you did not receive. There was some discussion on including a definition for "financial institution". Mrs. Banfield said she had one prepared for HB-95-Confidentiality of bank depositor and customer records.

Contract. Restr./ Interest

Hayden checked why HB 92 was placed in Title 45. There was no reason why it couldn't be put in Title 34. There was no objection from the committee on this change and it will be placed it Title 34 under Real Estate. HB 92

Computation of Interest

Discussion returned to HB 93 - Interest computation/extension of credit. Mr. McMurray said he had an objection to this bill. He said the Commerce Committee had amended this on Page 1, Line 12. They deleted "or penalties". It would be unfair to include penalties in the overall interest rate. This would give a break to the delinquent debtor. This is clearly in conflict with our small loan act. Malone felt the reason for having the penalties was if some penalty was based on the payments that didn't take into account the 365 days--it would take care of that. McMurray said the main thrust was to limit the effective rate charged for the computation of interest rates and service charges using the 365 day formula. The contract rate sets the ceiling for interest and service charges. The debtor who makes his payments on time and not subject to penalties, would be subjected to that contract rate. This way the debtor who made late payments could still be subject to the motivating penalties. Tillion said the effective rate of interest should not have penalties included. McMurray recommended that the committee adopt Commerce Committee amendment. HB 93

Tillion read definition for "financial institution" from letter submitted by Mrs. Banfield. This definition was adopted. They weren't sure which bill they would use to add this definition.

Orsini asked about the effective rate of interest. He said if you had an interest of 8 per cent the lending institution would have to say it was 8.3 or 8.4 if they were operating on a 360-day year. Malone said this was true according to the truth-in-lending law. Orsini noted that it has not been the practice in the past to include service charges as part of the interest rate. This would in actuality lower interest rates. Malone said that all of the costs of the loan contribute to the effective interest rate. McMurray said there were some exceptions to this. This would include recording charges which go to the borrower. It was mentioned that Mr. Fink was concerned about the practice of taking interest in advance which could cause an effective rate to be higher than the contract rate. McVeigh said we want to eliminate the practice of charging interest in advance and in effect making the contract rate higher than stated in the contract. Tillion said it was more accurate to say that we only want them to state the correct interest rate. McMurray noted that the effect of this bill for anything higher for simple interest would be to subject it to the punative remedy in Section b and would void all interest and service charges. This bill is to cover amortized loans so the people will know what are the true charges for interest in the final computation.

HB 95

Confident./ Bank Records

HB 95 - Confidentiality of depositor. (Beirne arrived 4:15) Mr. McMurray said their principal concern with this bill was the ambiguities concerning financial institutions. He said he had some concern about the casual use of the word "depositor". He felt this word implied people doing business at banks and not savings and loans or credit unions. Also he asked what was meant by "inquiry" This is on Page 1, Line 24, it mentions a valid inquiry. Is this a phone call or is this something in writing? He felt that except for (5) the other changes in the existing law are probably not necessary. Banfield said this is already part of the law but the bill changes bank to financial institution.

Tillion felt this is all encompassing and even loan sharks could meet the criteria. Chance felt that under that definition Penney's would also be included. They felt it should be separated to credit operations rather than get into the retail sales. Tillion felt this would include anyone doing credit business, not just institutions for such. Tillion read the letter from the Anchorage Businessmen's Association. There were a number of recommended changes. Discussion centered on Page 1, Line 12 where it mentions commercial banks, savings and loan institutions, and other financial institutions. It was suggested that we delete "commercial...other" on lines 12 and 13. Line 14 to delete "under...conditions:" on Line 15; and Line 17 "which...disclosure;" on Line 18 was to be deleted. The committee concurred in these deletions. Tillion said they were suggesting that we not be so all-encompassing as Fink wants. Banfield felt we shouldn't make this quite so broad. Chance wanted to make sure that savings and loans companies were covered in this bill. They are not necessarily called depositors so she wanted to know if they would be covered. Mr. McMurray said that Title 6,Chapter 5, relates to banks and Title 6, Chapter 30 related to savings and loans associations. Tillion asked Mr. McMurray if he would put it in a different place in the statutes. He said there was a suggestion to make this just refer to banks. McMurray said if you wanted to cover savings and loans and credit unions you should probably put it some place else in the statutes. McMurray felt this could be handled by giving a good definition to "financial institution". He said it could be added to the banking statute in the definition section. Tillion said he agreed with Chance. She said when people are looking for something relating to savings and loans they should be able to find it in that part of the statutes. Malone volunteered to work on a CS for this bill. Mcveigh felt that a better way to handle this would be through the General Provisions section. Hayden said there was no such provision under the Banking statutes but that this could be done. McMurray felt this would be a good approach. McVeigh said lawyers always look at the general law and then go to specifics. Tillion said there is no General Provisions section now but we can start one. Banfield also noted that we would have to repeat this in the interest section.

HB 95

Confident./ Bank Records

Dean Ehrich, Alaska Retail Association and Anchorage Businessmen's Association, said the committee had already considered his testimony which was the letter discussed previously. He just wanted to say they do support the concept of this bill and they have no objections to what the committee is trying to do to clarify this measure. He felt we should go back to the statutes and add (5) which would accomplish the real purpose of the bill. Chance said if you did this you would still refer only to banks. Chance felt if you were really going to protect the consumer you should include Penneys, etc. Mr. Ehrich said Penneys will not give anyone a credit rating unless they are the credit bureau. They have a code number with which to identify you first before they will give any information. The idea behind this bill is to make it clear than banks can give out payment habits of the customers who have asked for credit elsewhere. He said when people ask to see their credit rating they always ask why there is nothing in the file about their bank credit. We can then get the permission from the bank by having the individual apply for this in writing. Then it can be included in their credit rating. Banfield asked to have a CS drafted for HB 95. She moved to have Hayden do the drafting and she will work with him on this. Hayden asked for clarification of the definition of "financial institution". He thought it should say "under this title". Orsini asked if it wasn't the intent to cover retail. Banfield said no. Chance thought we should want to cover the retail credit of other operations. They would be functioning the same way. Banfield doesn't think retail credit should be covered here but maybe we should get into the Fair Practices section.

McMurray requested that the term "bank" be retained on Line 22. He said that is the only institution on which a negotiable instrument is drawn. McVeigh said we would have a new General Provisions section and then (5) will be the same essentially as it is now. This would be applicable to all institutions. He said that was the danger of this kind of drafting, you might stick something in here that applies only to banks but you include savings and loans, etc. That brings up the question as to whether other sections of Title 6, Chapter 5 apply also. If you want something to apply only to banks, then put it in the banking section. Banfield said we would have this drafted up and then look at it again. Malone will work with Banfield and Hayden on this.

HB 98

Delinquency Charges/Loans

HB 98 - Delinquency charges/loans. Malone felt this was a good change to make in present law. Tillion noted that Mr. Dick Hall said that the girls in the office open the mail and throw away the envelopes. The delinquency charge is used to jar someone into paying on time. The person mailing the payment does not have the envelope nor does the bank. There is no proof of mailing date. It may not have been legible anyway. The postmark, that is.

Utility cutoffs/ Notification

McVeigh asked the committee if they would be interested in sponsoring a bill to cover problems caused by utility companies denying services without getting positive notification to the individual who may be away on vacation or ill. There have been some instances where electricity has been turned off causing water pipes to freeze, etc. He wanted to arrive at a date or period of time before they could shut off utilities unless personal notice had been received. Chance suggested a certified letter. Many times there has just been a mixup and McVeigh feels these situations should be covered. Beirne said this would be especially bad in the winter. Malone said we could legislate some limits. McVeigh will have such a bill drafted.

Chance moved to adjourn at 5:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 22, 1973

Vice-Chairman Banfield called the meeting to order at 3:30 p.m. in Room 104 of the Assembly Apartments. Present were McVeigh, Banfield, Beirne, Chance, and Kaden.

Contract. Restrictions/ Interest

The first item of business was HB 92 - Contractual restrictions/ interest. A CS has been prepared and this transfers the location from Title 45 to Title 34, which is real estate. The vice-chairman asked for a motion to accept the CS. McVeigh so moved and asked unanimous consent to accept this CS. McVeigh then moved and asked unanimous consent for a "Do Pass" recommendation. This bill was signed out all "Do Pass" except for Genie Chance who signed "No recommendation". HB 92

Computation of Interest

HB 93 - interest computation/extension of credit. Hayden noted that the only thing that the committee wanted treated in this bill was the definition of "financial institution". We know this is referred to Title 45, Trade and Commerce and also under the interest section. It might be better to say " a person extending credit" but wondered if this would have any other affect. Hayden said if we did this then we wouldn't want to have a definition for financial institution. This would cover almost everything. McVeigh asked Hayden to check the Small Loan Act to see what it does. There may be a conflict. HB 93

Sequestered juries/ Appropriation

Mr. Bob Reeves, Court Administrator, and Mr. Bill Nix met briefly with the committee and they will be back next week to discuss their problem further. There seemed to be a problem of sequestering juries and they needed more money. They were going to provide rooms for jurors.

Transference of Title

Mrs. Banfield asked Hayden to draft a bill which will be brought before the committee at the next meeting. This related to a change in the law to get the name of the person to whom title is transferred in real estate transaction.

Computation of Interest

We returned to HB 93 and read from the statutes about the Small Loan Act. It said interest shall be paid only on the unpaid balance. It said a month is 30 consecutive days. This brings in our 365-day year problem. Hayden said this would be except as otherwise provided by law, a person may compute or precompute interest in the method desired. Chance felt there might be other areas of conflict. McVeigh felt 93 was doing what that section already does. More work needs to be done on this. HB 93

Reindeer

There was very little time available for discussion as two members were to attend the Finance Committee meeting at 4:00 p.m. HJR -36 - Unrestricted ownership of reindeer. Banfield explained that this was Frank Ferguson's resolution. HJR 36

Reindeer

There is a federal law that says only the natives can own the reindeer. This is a resolution asking Congress to repeal those portions which restrict owning of Alaska reindeer to natives. People with the finances to operate meat packing plants for reindeer are prohibited because they can show no collateral. McVeigh moved this resolution out of committee with a "Do Pass" recommendation. There was no objection. All signed "Do Pass".

Meeting adjourned at 3:55 p.m. so members could attend Finance Committee meeting.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, February 23, 1973

Vice-Chairman Banfield called the meeting to order at 4:15 p.m. in Room 104 of the Assembly Apartments. Present were Banfield, McVeigh, Orsini, Beirne, and Kaden.

Annulment Reg./Envir.

HCR 54

Dr. Max Brewer was to testify against HCR-54 - Annulment of regulations. The committee waited until this time to begin because they did not have a quorum. Dr. Brewer talked with those committee members present until which time the meeting was called to order. He explained that experiments in the Fairbanks area showed that 35,000 square feet per lot was not big enough, but that 40,000 square feet worked. He said the best areas in the state for use of septic tanks is the Matanuska Valley. It has the best soil. They also have good ground water conditions. Anchorage has glacial materials and the problem of thin soil. Southeastern Alaska has different problems. There are varying conditions in soil here. Barrow is the worst area of the state because of permafrost conditions. They also have long, cold winters which make the operation of septic tanks unworkable. He said septic tanks worked well before the advent of automatic washing machines. Also before disinfectants, detergents, and soaps that deter action in the septic tank. The public health needs to be protected and we have reached the limit. Dr. Brewer showed some photographs on conditions in the area and in the state.

Banfield asked Dr. Brewer to explain his letter he sent to the committee. He said it explained the section that will be changed will be in effect a grandfather right for people who have already purchased lots. This will allow them to build single dwellings or cabins on these lots even if they are under 40,000 square feet. Anyone owning or buying a lot before February 5, 1973, would be able to build. We know this is going to add some pollution but this seems to be the only way to handle the situation. Many of the lots are rather scattered. This will stop developers from using these lots. He also said this would not prohibit the development of undersized lots on the great number of tracts that have been paper platted in the past six months to a year. Much of the paper platting occured because people became aware of the problem. He gave the dates of when certain boroughs adopted their regulations in this regard. In most areas the regulations are either being adopted or are coming into effect. He said there are no regulations by the state for the unorganized areas of the state on pollution and septic tanks. He said prior to the formation of the Department of Environment the H&W Department had the regulations but not the responsibility to enforce them. The new department had the responsibility of enforcement but had no regulations. That is why these were prepared.

HC 4

Annul. Reg. Environ.

The emergency will be in effect for 120 days unless the proposed regulations are adopted prior to that date. Hearings will be held in March throughout the state. The final regulations are scheduled to be put into effect April 1. Orsini asked the Commissioner what would happen if the resolution would go through. He said it meant you could sell small lots and build houses, duplexes, or whatever on them.

Mr. Freeman, Representative from Ketchikan, testified in favor of this resolution. He said the changes proposed by Dr. Brewer would not help his people in Ketchikan. There is very little land available in that area, especially between the water and the mountains.

HB 182

Live Snakes

HB-182 - Live snakes. McVeigh would like to consider this bill before he has to leave. He moved to adopt an amendment to this bill. It added "poisonous" between "live" and "snake" in the various locations in the bill. McVeigh said this bill requires people who have imported or keep these snakes to have a permit. This would not affect the snakes kept in class rooms. There was no objection to this amendment. McVeigh moved the bill out "Do Pass" The bill was signed out unanimously "Do Pass".

HCR 54

Annul. Reg. Environ.

We returned to Mr. Freeman's testimony. Mr. Freeman said the approach by Dr. Brewer was his philosophy. It is not necessarily the intent of the Constitution. That intent is to have a maximum amount of local government with a minimum amount of governmental units. Alaska has charged the local communities with the responsibility and are given the platting, planning, and zoning. The community of Ketchikan has done that and he presided for two years.They have a model zoning act. The topography and geography of Ketchikan is such that we have a road running along the beach and for the most part the residences are one lot deep for 25 miles. There is no way they can find enough money to put in a complete water and sewer system. Dr. Brewer by putting out these emergency regulations has stopped construction in the district. He said he didn't feel anyone could choose a lot size that would fit all of Alaska. Since these problems have been developing over a long period of time, he did not feel that now it should be an emergency in which emergency regulations should be adopted. The State of Alaska has even auctioned off land that does not meet these specifications. Hearings should have been held before the regulations were adopted. The only solution seems to be to annul the regulations.

The next witness was Billy Berrier, Juneau City and Borough Attorney. He said that platting had been delegated to the communities and then you have the statute that says you would adopt rules and regulations relevant to the point at issue. Then it goes on to say how to apply this to political subdivision. It says they will be subject to the local regulations adopted under this chapter.

Annul Reg. Environ.

Mr. Berrier also said there was some argument as to whether this relates to health powers. Their main objection to these regulations is that communities have the right and duty to perform platting and planning for their area. Mr. Berrier said there was also another problem with city planning. When you leave the main developed areas the lots tend to get bigger and when the city expands you have a problem with the orderly development. After a number of years the city expands and you develop to the point of putting in water and sewer. These big lots then become a problem. It is either too expensive for one party to cover all of these costs or they subdivide in an erratic manner. Platting was left as a local government tool. It can handle the unique problems better. He stated that the subdivision ordinance took about three years to prepare and felt this regulation by the Department of Environment was done in an unsophisticated manner. This may give a short term solution to one problem but does not take into account the accompanying problems. Banfield asked Mr. Berrier if he would recommend that we pass this resolution. He said he wasn't sure what effect it would have and felt that since this first one was temporary that should be taken into consideration. He thought that the part that had created substantial comment should probably be repealed but thought there was a great deal of merit to the remainder of the regulation. Banfield asked Hayden if you could do that. He said he didn't think you could repeal a portion of a regulation. Banfield didn't think it would do much good to annul the regulation because the permanent regulations will be put into effect on April 1. She said we could not put it out today since we had lost our quorum. (McVeigh left at 4:30 after signing out HB 182)

HCR 54

Mr. Urion asked Mr. Brewer why he didn't take action on some of the people who were violating the laws. He said because the municipalities are the biggest violators which makes it difficult for him to go out and arrest someone for an illegal act unless he goes to them and requests some changes and they refuse. It becomes a real question of morality. Dr. Brewer said the state has several different standards and we should only have one. For example, we have the one about pollution of water by oil. Our state ferries have no place to dump their bilges, so they dump them in the water. Coast Guard vessels do the same. How can someone go out and arrest a private citizen for depositing oil through the sewers. That is where about three-fourths of it comes from. Mr. Urion said he recognized that very few cities in the U.S. met federal water control standards. Banfield said there might be some problem of allowing the grandfather rights because some people would be allowed to build and others would not. Dr. Brewer said his intent was not to close Alaska down, but to try and put a stop to pollution some where.

Meeting adjourned at 5:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, February 26, 1973

Chairman Tillion called the meeting to order at 3:35 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Tillion, and McVeigh.

Filing Consolid. Income Tax Returns

SB 2

The first item for discussion was Senate Bill 2 - Filing consolidated corporation income tax returns. The chairman opened the meeting for discussion since there weren't enough members present for a quorum. He said this was passed last year but was vetoed by the Governor. The Governor's message on this said that the commissioner had no powers to require such filing. This bill was prepared in Havelock's office and this covers the language that the Governor opposed last year. A lot of affiliated corporations separate into different categories and buy that particular kind of license. This would make them consolidate. McVeigh said this is an advantage to be able to file one tax return. Chance asked what monies the state would lose under this law. McVeigh said it would be very little because they would pick it up on the corporate tax. Tillion said this would conform with federal law. Chance again asked if this would bring in less tax monies to the state. McVeigh said this would be true in some cases. You pay a per cent up to a point of your gross, say $50,000 on which you would pay 2 per cent and for everything over that amount you would pay 1/2 per cent. (Banfield arrived at 3:42 p.m.) Tillion brought Mrs. Banfield up to date on what was under discussion. Banfield moved SB-2 out with a "Do Pass" recommendation. There was no objection. So ordered. It was signed out unanimously "Do Pass".

Annul Reg. Environ.

HCR 5

HCR-54 - Annulling certain administrative regulations of the Department of Environment. Banfield reported on the testimony taken at the last meeting. She didn't know what kind of decision should be made. Tillion said he understood that the commissioner would withdraw the regulations but now it seems he isn't going to do that. Banfield said we couldn't have those big lots when sewer and water would be put in because nobody could pay the assessments. Tillion said he had no objection to these regulations outside municipalities but feels this should not apply where there is zoning and planning. McVeigh wanted to know if passing this resolution would take away the basis for the scheduled hearings on this subject. It was determined that it would not. Tillion suggested a letter to show that the legislature recognizes his problems and this is a valid problem throughout the state but we feel that the municipalities that now are exercising zoning and planning should be left to do so. If anything is unhealthy or unsafe the commissioner has the power to shut the jobs down on an individual basis. Banfield moves the resolution out with a unanimous "Do Pass" recommendation. There was no objection.

HB 93

Interest Computation

HB 93 - Interest computation - 365-day. There was a legal problem with this bill. Hayden said that the Small Loan Act provides that they can compute interest on a 360-day year. Tillion said we should repeal that. Hayden felt that it would be beneficial to have Mr. McMurray come back. He suggested that we make an exception for that. Banfield suggested that we schedule this for Wednesday and invite him over. McVeigh said if we wanted to make it apply to all institutions that it was only a drafting problem. Hayden said this could all be made part of the committee substitute. It was decided that it was not necessary for Mr. McMurray to take part in the preparation.

HB 154

Revocation Driver's Licenses

HB 154 - Revocation/Driver's licenses. McVeigh said he did not approve of the principle of this bill. He felt the judges as professional people can already do this and he did not want to take away their discretion in handling these things. Tillion noted that this was only mandatory after the second time. This would have to be after conviction. The real serious part of this bill is the last portion dealing with driving with a suspended license. Banfield objected to mandatory sentencing. Tillion felt that it is no longer to be left to the courts because of the many deaths and injuries that occur on our highways due to drunk drivers. He has to be convicted of being under the influence. McVeigh said that was a point, too, because the person did not even have to be drunk. (Malone arrived at 4:00 p.m.) Banfield felt that we had competent judges who could handle this. Malone asked about the problem of drugs. How it could be determined if a person was under the influence of drugs has been a problem in the past. Tillion said there would be a lot of this that you couldn't prove. They would still have to be convicted by a jury before you could revoke the license. There is only a one-day mandatory jail sentence and this is mainly for embarrassing the person. Tillion told about the condition in his district where a fellow has been convicted four or five times but he still drives even if his license is suspended. McVeigh said he didn't object to that part of the bill. Tillion didn't think it was necessary to have testimony on this bill because it had received such enthusiastic support in the Commerce Committee. (Beirne arrived at 4:06 p.m.) McVeigh asked about (5) and Tillion said no second offense was necessary in this part, you just lost your license for 30 days. Banfield said there was no test required or means to tell if a person was under the influence of alcohol or drugs. Tillion said if we wanted we could put in a .08 reading on the breathalizer. Beirne thinks we should tie it to some test or rating.

Rep. Meekins commented on this bill. He said he had given this subject a lot of thought. He said one individual may not be affected by one drink but even with one glass of beer your reaction time is reduced. The point of this bill is to make it known to everyone that they are going to have to change their social customs. If the bill is too weak you won't be able to change the customs. People have to be put on notice

HB 154

Revocation Driver's Licenses

that they have to change their life pattern. McVeigh read from the statutes at 28.15.210 and 220. What we are saying by this bill is that we are now going to take the place of the judge and take away discretion. He has these rights to revoke at present. He felt that trying to change a cultural pattern through a system of mandatory sentencing is bad legislation. Malone said he could see real problems in trying to do this but felt we needed to do something to get the drunk drivers off the road. It is true, you cannot legislate common sense. McVeigh said you were putting in a severe penalty for not driving while drunk but for driving while under the influence. There is a vast difference. He said he didn't want to divest the judge of his discretion and when you don't allow a limited license to people who make their living by driving or need to drive to get to work. You are in effect putting these people out of business. Beirne asked what would be the difference now, or who makes the determination now. Tillion said the judges can suspend or make it less or give out an interim license. Malone asked McVeigh where it mentioned the court shall revoke the license if this was binding upon the court. He said it was.

Generally, a driver's license is a privilege rather than a right. The person operating a motor vehicle can do serious harm to the public. Beirne said she could see a law like this being a point of harassment. McVeigh said if the committee thought this was going to solve the highway problem they were fooling themselves. Malone moved to report the bill out of committee. Chance brought up the point system and felt that we should consider both measure at the same time in order to have a comprehensive program. Under the point system drunk drivers will get six points assessed against them. Why not have it amount to 12 points and then you could take their license under that bill. Tillion said the concept of the two bills was different; one was administrative revocation and the other judicial. Meekins said the point system was to be used to spot hazardous drivers. He said they gave six points for drunk driving because this made it uniform with the other areas throughout the United States. Action was taken on Malone's motion to move the bill out of committee. Four signed "No recommendation" and Tillion and Malone signed "Do Pass".

HB 262

Malicious Mischief

HB 262 - Malicious Mischief. Hayden read from the statutes showing what this addition would do. Malone asked if it already wasn't an offense to steal signs, etc. Tillion said it was but this puts it under malicious mischief. McVeigh said the main problem with this type of thing is the policing. Banfield moved to put this bill out with a "Do Pass" recommendation and asked unanimous consent. There was no objection. It was signed out unanimously "Do Pass".

Malone moved to adjourn at 5:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, February 27, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Banfield, Chance, Orsini, Malone, Tillion, McVeigh and Kaden.

Mandatory Sentencing Felony

Mr. Ose has asked Judge Moody to testify in behalf of HB-105 Mandatory Sentences/Felony - and other bills that he has in this committee. We haven't received any except HB 105 but testimony will be taken on the other bills, too. HB 105

Judge Moody started out by saying that most judges, generally speaking, are against mandatory sentencing. It is an all encompassing thing and it sometimes catches the people that should not be in it. There are situations where there should be serious consideration given as a matter of course. He said he hadn't checked to see how this would tie in with other provisions of the law. He referred to the section of the law where it states a minimum and maximum sentence procedure. The judge can withhold sentence and give less than the amount. In one sense, 80 per cent of our laws technically require mandatory sentencing. Many judges give less than the minimum in the sense that they recommend probation. The general public, though, thinks that a minimum or maximum sentence means to be locked up in jail for that period of time. Probation and parole is granted in 90 per cent of the cases. He mentioned one problem with the part that said you would get an increased sentence if convicted on more than one felony. He gave the example of one crime including three felonies. Would this be taken into account or would it have to be separate incidents? This does pose a question. The purpose should be to take care of the person who shows he or she is leading a criminal life and not a one-time offender. The judge asked if this was aimed at the drug addict. Mr. Ose said the reason for the bill was the great number of felonies that are committed by second offenders. It was made clear then that the purpose was to differentiate between an occasional criminal and one who makes his living by this means.

He said the real problem was one of philosophy and the legislature would have to decide on that. He recognizes that there is this problem of people coming back time and time again. Sometimes the court gets blamed for these people being turned free again, but after 60 days the court no longer has jurisdiction unless it is brought to their attention. Probation and parole people are not under the control of the courts. You shouldn't work at this strictly from the standpoint of conviction but what are you doing about rehabilitation. We need to do something so after the man is turned loose he isn't going to go right back into crime again. The state at present does not have either the medical or social people available nor the money that it takes to carry out a program such as this.

HI 05

Mandatory Sentencing Felony

The judge explained about minimum and maximum sentences. He said a person would think that in a sentence that says not less than one year nor more than ten that the person would have to be confined for that period of time. This sounds all right, but we have a statute that says upon conviction the judge can defer the sentence. This means he will not be sentenced now but may defer the sentence for say up to five years and you place the person on probation on the following conditions. Sixty days after the person goes to the probation department the judge cannot change his sentence. They can then supervise the person or they don't; they may report or they may not. Tillion asked why probation was under social services. McVeigh said there was a bill in to study the consequences of putting this under the courts. Judge Moody said there was another thing about the deferred sentence. If the person has followed all the conditions of the deferred sentence, then he will be given a clean record. This is used particularly for first offenders. He said this is one of the best programs but unless it's supervised--checking to see if conditions are met--it does not work properly. The judge said they could also use these plans in combination. They could require that some of the sentence time be served and then a portion for probation. He said they could also make them pay for damages or give restitution. This has been very successful. (Banfield left 4:00 p.m.) The judge said they also had a work lease program and they do this prior to conviction so the person can support his family while awaiting trial. He said Corrections likes to handle this themselves and they want to evaluate the person. This creates problems because it takes sometimes 90 days to evaluate a person and they won't let him keep his job in the interim. If the work lease is going to be effective, you have to let the person continue his work. McVeigh noted that a lot of people get into trouble because of their economic condition and causing them to lose their job would only make matters worse. The judge suggested that you draft some form of legislation that would say if a person within "x" number of years after he gets off parole or probation or finishes serving his sentence would be included in the mandatory sentencing. Only the habitual offender would be caught in this. It also has to include the person who commits another felony while he is on parole or probation. McVeigh thought it could be a simple statute saying anyone who has been convicted of a felony and has been sentenced if he should commit a crime involving moral turpitude. You wouldn't want it to apply to a technical crime--something like failure to file an income tax return, etc. Then you would say that upon a second conviction committed while on probation or within a certain period of time shall receive a mandatory sentence for this crime without probation, parole, or deferred sentence. The judge said you should be careful in drafting this and maybe you should say committed or convicted, then you would be sure to get the person making his living off crime. Tillion asked the judge how many years should this be. He said one year would be too short and that five years should be pretty good. McVeigh said this would be prepared by Hayden and a copy would be sent to the judge for his comments. He would then return it to the committee for consideration.

HB 211

Possession of drugs

HB 211 - Possession of drugs. This bill is not in committee but the committee will hear testimony from the judge on this bill and some others introduced by Mr. Ose. Orsini said this puts possession of drugs while on school grounds the same as selling it. Tillion said this was coming close to the Japanese system where they make no distinction between the pusher and the user. Judge Moody said the user will eventually become a pusher if he continues the habit. Tillion said it had a 19-year-old age in the bill and there are few students that are that age and still in high school. Tillion asked him if there was any merit to this measure. The judge said it really didn't matter what he thought, the laws are what the people say and so they just change the law to fit. If you put in mandatory sentencing it is conceivable that there won't be as many conviction, as an example. The same way with possession of drugs. If the people want drugs, they will make laws so they can have them. Tillion said this bill was aimed at the older boyfriend and the school teacher. Judge Moody said he saw nothing wrong with this bill.

Ose said that the problem that he was trying to correct was an actual problem in the schools. He told of a girl who was in API now because of taking drugs while in school. Someone had slipped some to her in some food. He said outsiders come in and drop off the drugs and say they are not selling it. McVeigh said there is some obligation to protect one from oneself and it seems that is what we have to do today. The young people don't think they are hurting anyone but themselves when they indulge in alcohol, drugs, etc. They many times have emotional problems. Judge Moody said this was because the parents have abdicated their job. Ose said the kids say we won't do anything to them anyway, so they just go ahead and do their "thing". The judge felt we should get tough with the kids and not let them think we will be so easy with them the first time they are caught.

HB 89

Releasing name of minor

HB 89 - Releasing name of minor. Mr. Ose said he wanted to know who the children were in his neighborhood that were getting into trouble so he could stop association between them and his children. This bill says they will release the name of a minor when he has committed a felony and be treated just as if he was an adult. Judge Moody thinks you should reveal the names except in special circumstances. He thinks you should leave an out. You could do this by saying you would release the name for the second offense. This would take care of the exceptional case where you wouldn't want the name released. Tillion said that Fairbanks and Petersburg release names. Judge Moody said releasing the name may do some good and spur the parents to take better care of their children, but he warned against giving undue publicity because this makes a hero out of the offender. He suggested not allowing their picture in the paper.

Mr. Ose said his main concern was that for a major offense no names are given out and even fellow students do not know who has done these things. The judge said he agreed with Mr. Ose and would give out the name on the first offense

allowing the judge to have discretion but making it mandatory to release names for the second offense. McVeigh said that as a parent he wanted to know if a child was having trouble in the courts first of all for his own child's sake and secondly so that he could put pressure on the parents of the child named so they will feel the public pressure and the embarrassment. HB [illegible]

Releasing names of minors

Mr. Tillion asked the judge to comment on suspension of driver's licenses and the point system. Judge Moody said these problems are serious and we would have to take drastic action to get results. If you take a license away and it is a man's livelihood, then you have more problems. He said we would not be able to enforce this because the American public won't go for the changes necessary. (Banfield returned at 4:35 p.m.)

Sale of drugs

HB 104 - Sale of drugs/penalty for. Orsini felt we should have a minimum sentence for narcotics. McVeigh said this wouldn't do it because it is not mandatory. You would have to have legislative language saying that there is no probation or parole, etc. Judge Moody suggested saying that any other provision of law be excluded under these circumstances and you would not allow probation, parole, or deferred sentence. That concluded the testimony by the judge. HB 104

High seas net fishing

HCR 27 - High seas net fishing. Tillion said this was a resolution by McGill to ask that the U. S. government try and stop net fishing on the high seas. McVeigh moved and asked unanimous consent to pass this resolution out with a Do Pass recommendation. There was no objection. All present signed Do Pass. HCR 7

Flammable Fabrics

HB 215 - Flammable fabrics. Tillion said that other states have been banning these materials and Alaska seems to be the dumping grounds for them. McVeigh told of a personal experience he had with this type of material. McVeigh moved the bill out with a "Do Pass" recommendation and asked unanimous consent. There was no objection. HB 215

Private and contract carriers

HB 212 - Private and contract carriers. Tillion said that it has been found that many people are in violation of the Alaska Carriers Act. It might be people who sell and install appliances or something like that. This bill makes an exemption for them by amending present law. The carriers are in favor of this bill. Tillion will carry this bill on the floor. McVeigh moved the bill out and asked unanimous consent. There was no objection. All signed "Do Pass". HB 212

Interest Computation

CSHB 93 - 365-day year/interest. McVeigh suggests that we send a copy of the CS to Mr. Fink to see if he agrees with this. HB 93

Tax Bonds Nonresidents

HB 268 - Tax bonds/Nonresident taxpayers. Tillion read the Governor's cover letter. After brief discussion, McVeigh HB 268

moved and asked unanimous consent to pass this bill out "Do Pass". There was no objection. Joe Orsini signed "no recommendation".

Meeting adjourned at 5:07 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, February 28, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, McVeigh, Orsini, and Kaden.

No-Fault Insurance

HB 187

This meeting was devoted to discussion of CSHB 187 - No-Fault Insurance. Banfield asked if we had copies of Mr. Randolph's summary of the changes made by the Commerce Committee. Copies were made for committee members. Mr. Dan Hickey, Assistant Attorney General, drafted original HB 187 and was here to testify in favor of his bill. He had some prepared comments but they applied only to the original bill and not the committee substitute. He said the CS was nearly the same but he had some problems with the changes made. The first was the way in which noneconomic determinations on pain and suffering has been handled. Types of injuries are limited, there were more in the original bill. He said there was a reduction in total first-party benefits. It stayed the same on $1,500 for funeral expenses and $250 per week work loss. Original bill had $87,500 total first-party benefits; this CS has $15,000. The problem with this is that it does not address itself to the major reason for a no-fault bill. The lower limit does take care of the huge quantity of cases, but these are being taken care of now. The third point was property damage. Original bill showed that liability was abolished as to damage to the vehicles but preserved as to all other property. The change was that liability is now for all property including vehicles. He said the problem is that the present system in terms of premiums is inequitable. By including them in no-fault your premium for collision would be more attuned to the type of vehicle you drive. The second problem is that many people with small injuries are overcompensated. Other than that the administration feels the changes made are acceptable. McVeigh asked Mr. Hickey to prepare a statement of the things he had just stated. He said it was hard to judge the differences unless he had it in writing. Mr. Hickey will prepare such a statement for all committee members.

Banfield asked how this compared with Oregon's no-fault plan. He said Oregon had a pseudo-no-fault system. He said Randolph proposed an amendment to this bill that would do the same as the Oregon law. He would have preserved liability once medical exceeds $2,000. You would have compulsory liability with mandatory first-party insurance. Banfield said this was mandatory first-party. Dan said it was both mandatory first-party and third-party coverage. The liability limits were raised to $15,000 per person each accident.

Orsini asked if this bill would require that all people have insurance. Mr. Hickey said all owners are required to provide security for the operation and use of their motor vehicle.

No-Fault Insurance

This can be done by self-insurance. In the case of the state, you can file a certificate of obligation. He then asked if this would include a man operating a snowmobile. He didn't think so according to the definitions on Page 43, Paragraph 10. Orsini wanted to know if it would include off-road construction equipment. Dan said he didn't think they would be included. McVeigh said we should look at the definition under 28.10 which requires a motor vehicle to be registered. This could include snowmobiles because they have to be registered. It could even include a motor bike. Dan said there was a problem with this. It is logical to believe that under this kind of system premiums for motor cycles will raise. There is an optional provision for them and this would make for a premium saving.

Orsini asked how a state could force insurance companies to further define their categories--such as age brackets for motor cyclists. The ones having accidents are the same as those for driving cars and there is an age bracket for them. An older driver is usually a safer driver. Dan said these fall within the jurisdiction of the companies. (Malone arrived 4:00 p.m.)

Mr. Fred Eastaugh, representing the American Insurance Association, testified in favor of what he called pure no-fault. He felt that HB 187 was reduced in its impact by what the Commerce Committee felt was a practical bill that would pass the senate. Randolph had one point--once entry was into the tort system by going over the medical threshhold or into serious permanent injury then there would be subrogation back to the dollar one. This was rejected by other members of the committee. McVeigh said it was usual to have damages for automobiles. Mr. Eastaugh said there was mandatory property damage. He said UMVARA put in the suggestions by Bush and Keeton and inserted the deductibles. This was a big thing. They were interested in cost and this would lower it. They could get relief from the high deductible. Mr. Hickey said he provided for three types of coverage in original HB 187. One was full coverage at $100 deductible, second was collision coverage in a single car accident--when you were responsible and the only car involved, and the third was a multiple vehicle accident. That was taken out in Commerce Committee. Allan Engstrom commented that he felt it was fair to say that of the 12 bills in various states on no-fault most do not include property damage coverage. Mr. Hickey said this was true but these bills for the most part are not true no-fault. (Chance arrived at 4:10 p.m.)

Orsini asked which insurance would take precedence--health or no-fault. Dan said this bill makes automobile coverage primary except as to workmen's compensation and social security.

HB 187

Mr. Hickey handed out copies of his prepared statement given before the Commerce Committee. This will be different from the statement he will prepare for CSHB 187.

No-Fault Insurance

McVeigh said there was a feeling that pure no-fault is the only thing. Anything below that is undesirable. Personally he does not think that pure no-fault is desirable. He thinks we should use a different name to describe the concept. He said his motives were directed primarily to the consuming public. The possibility that rates may go down or at least level off is what they are concerned with. You could elimate many of the nuisance things with less than a pure no-fault bill. He is against eliminating the tort system entirely. Banfield said she attended a hearing last summer and Mr. Wilson advocated strict no-fault. He told those present that sooner or later the various insurance companies have to get together and decide who is at fault, so you have not removed the assigning of fault from the system. When fault was finally assigned you were going to have your premiums increased because you were involved in an accident. She could not agree with the no-fault approach if they were still going to be assigning fault, but the person involved would not be able to have his attorney there. Tillion said the trouble with the present system is that when you get hit by somebody and they don't have insurance you don't get anything. McVeigh said what Tillion wanted was compulsory insurance. Chance said that can't be enforced. McVeigh said he favored compulsory insurance but did not favor no-fault insurance. Tillion felt the bill was a compromise between the two ideas.

Mr. Hickey said this CS would not meet the specifications as outlined in U.S. Senate Bill No. 345 by Hart-Magnusson. They are going to legislate what no-fault is and that was why HB 187 was drafted so that it could meet these requirements.

Chance asked if this had anything on comparative negligence. Dan said it did not. Mr. Van Dort commented that with collision insurance the companies get together and they arbitrate cases on the basis of fault. He represents the American Mutual Insurance Alliance. He said no-fault would not change the insurance companies' usual business practices. Mr. Van Dort said that the bill does not provide a way to shift the money back to the person causing the accident. Everyone has to pay for his accident. Tillion said the main thing was that the person that is smashed up is having his bills paid right now. If it's a real serious accident, then you can go back to that person after you have reached the limits. Chance said that under present law there is a requirement that your insurance company has to offer uninsured motorists' coverage. If you don't want it you don't have to take it, but you can buy it. This way a person knows what coverage he is getting and what he is paying for the benefits.

HB 187

No-Fault Insurance

Mr. Hickey said that 20 per cent of the premium dollar goes to personal injuries. Tillion said this means that the injured person is receiving that much more money. If that wasn't true we would stay under the present system. McVeigh asked if the insurance companies didn't feel that with a modified no-fault they would be paying the same and with pure no-fault there would be a saving because they would be paying less so they could give a reduction in insurance rates. Mr. Van Dort said no one really knew the cost, so there was no sure answer to this. The claims information from other states is not applicable to Alaska. Eastaugh said that statistics can be approached from a lot of different ways so they say different things to different people.

McVeigh asked Jan about his proposal to allow some procedure for an adjustment for those with poor driving records or those will good records. He said he felt some provision should be made. There should be some device in the bill that would guarantee that the cost of automobile accidents is going to be paid for by the bad driver by increased insurance premiums. Dan said there were other factors to consider besides your driving habits. He said that under no-fault they will also have to consider what kind of a victim you will be--in which economic bracket, etc. This will have a bearing if you are injured and accrue work loss and medical which may take you over the limit. Malone said he didn't have any statistics, but the reckless driver will somehow affect the premiums under the no-fault system. Dan said it would under the overall premiums. Mr. Eastaugh provided copies of an analysis by Professor Keats.

Malone asked how no-fault would affect small insurance companies. He could see where a large company would have a tremendous advantage over a small company. Jan said that except for the large companies, they get together for making or setting their rates. They combine their claim experience. Most anti-trust laws exempt insurance companies because they are so regulated under insurance codes.

Eastaugh noted that the Uniform Act is followed by notes and comments and thought this might help the committee. It is similar to the governor's bill but not like the CS. He gave out packets of information. Mr. Hickey felt this was a good text. This hearing will continue at 3:30 p.m. tomorrow.

Meeting adjourned at 5:15 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 1, 1973

Chairman Tillion called the meeting to order at 3:46 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Chance, McVeigh, Malone, and Russ Mulder.

Mandatory Sentencing Felony

McVeigh commented on the CS for HB 105 - Mandatory sentences/ felony. He felt this was acceptable and wanted a copy sent to Judge Moody today with a transmittal letter. As soon as comments are received from the judge, we will complete action on this measure. HB 105

Burial of a body

Tillion said we had received SB-73am - Burial of body - and wanted to complete action on this today. McVeigh said it would be all right if we made an amendment saying that the ashes would be decently buried. The amendment was on Page 1, Line 14. It deleted the "." and added "and the remains decently interred." Chance then moved the bill out as amended and asked unanimous consent. It was signed out unanimously "Do Pass". SB 73 am

No-Fault Insurance

The committee will continue to hear testimony on CSHB 187 - No-Fault Insurance. The chairman invited Allan Engstrom to begin his testimony. He deferred to Bill Baker who had a letter to distribute to committee members. Mr. Engstrom then began his testimony stating that he was acting as the legislative counsel for the Alaska Bar Association. He said the Bar has been interested in no-fault since its inception two years ago. He felt the committee should study this proposal well because it is a big bill and there are a lot of things that will affect the people of the State of Alaska. He said he didn't know why this bill was so long, since bills in other states are only two or three pages. He said the Bar is in favor of a modified no-fault system. (Orsini and Banfield arrived 4:00 p.m.) He said if you wanted to prepare a bill that would meet the philosophy of the senate, it would have to have a low threshhold. He gave the history of the present tort system showing there will have to be quite a few changes to meet under no-fault. He said that 81 per cent of the premium in Alaska goes to property damage and only 19 per cent to liability. That is what we are talking about--the 19 per cent. He said figures from the Department of Transportation showed that liability claims are below $2,000 in 85 per cent of the claims. He said it appeared that the federal government was tired of having people who were grievously injured placed on the welfare rolls and this is one reason for no-fault. He said the insurance companies hate the small claims for pain and suffering. There isn't enough money involved to bother with so they just settle and don't fight. They don't pay much attention to whether the claim is legitimate or not. In the larger cases a jury has to find which party was at fault and this is when we need to have that bill on comparative negligence. But that is another matter. HB 187

HB 187

No-Fault Insurance

Another objection to the present system is that you might hit someone who is judgment proof. Under no-fault it is compulsory so you would get paid. Mr. Engstrom said that there was objection to the amount of attorneys fees paid for by the claimants in these cases. He said this does mount up sometimes. He disagreed with the assumption that the court dockets were clogged. He said you could check here in Juneau and would find no problem. He said he didn't know about Anchorage or Fairbanks but doubted if they had any problem in this regard. Another objection to the present system, Mr. Engstrom said, was the claims were not handled expeditiously. He said he didn't think this was true because your insurance adjuster usually handled at least the small claims and they paid within 30-45 days. This was for the small claims under $3,000. He said that length of time was generally caused by the check having to be written say in Seattle or San Francisco and the no-fault system will not change that.

Mr. Engstrom in discussing the threshhold for medical felt that $2,000 was too high and it should be possibly $500. He felt it would be just the same as saying that no one in the State of Alaska is entitled to pain and suffering by having the $2,000 threshhold. This would eliminate about 95 per cent of the cases. This is a policy decision that the legislature will have to make. He noted that Charles Brown, AMIA, represented by Jan Van Dort, testified in the Commerce Committee that if you used a $1,000 threshhold that this would cover 75 per cent of the pain and suffering cases. The Bar Association is advocating a $500 threshhold for medical. Mr. Engstrom didn't feel that "economic determination" was clearly defined in the bill. Mr. Hickey said you could buy added coverage to cover any excess you might have in work loss over the $1,000 per month. Allan felt there would be a real problem in interpretation on this point. Jan said he had talked to Allan about this and they hadn't been able to figure it out. He felt there would be problems with this and recommended that Judiciary change it to make it more clear what "economic determination" really meant. Otherwise he could see this going to the Supreme Court. McVeigh wanted to know how difficult it would be to have this part rewritten. Allan said what he would write would be different from what Mr. Hickey would want. There was also discussion about how you could determine what wage loss would be when you worked in a profession that was based on fees or commissions. Dan didn't think there would be any problem in this regard. Malone asked about the fisherman who could lose his whole season. Allan said there was a provision where seasonal workers' income would be averaged out. Chance said a fisherman might lose his gear and boat because he couldn't make his mortgage payments. Mr. Eastaugh said that when you start defining something like economic loss and start making a list of things you might forget something and then it wouldn't be included. He thinks you should let the court decide what the losses are. McVeigh agreed that if you list specifics then anything not on the list is out.

He said if you used something like "economic loss" then it would include unusual situations that you might not remember. Allan said he had no argument with using general language.

No-Fault Insurance

The next point of discussion centered around the cost. He said if this system goes from paying just the party at fault to paying both parties there will have to be increased cost involved. Either the premiums will go up or there has to be a reduction in benefits. Charles Brown felt that the only thing wrong with the present system of tort liability was the small pain and suffering claims. He said these claims were 40-45 per cent of the 19 per cent figure mentioned earlier. (Helen Beirne arrived at 4:45 p.m.) Mr. Engstrom felt that a $500 threshhold for medical would eliminate pain and suffering claims almost altogether. The only sure way of determining cost is by experience. One way to have lower premiums is to be self-insured.

Allan said he wavered between $2,000 and $3,000 for a mixed threshhold of medical and wage loss. If you have a lower threshhold the person in the higher wage bracket is not going to be limited in his recovery. If you had $3,000 that would probably cover about 90 per cent of the cases. He said the Bar also felt a person should have the option whether to take basic loss or to sue in tort. He said of the latest information he had received from 8 of 14 states do not exempt tort litigation.

Allan then turned his discussion to the subrogation provision. Once you reach the threshhold then the insurance company can sue for what it has already paid to its claimant. The way it is set up both can sue at the same time and this gets very involved. He felt that procedures like workmen's comp would be more appropriate. The Workmen's Comp law works very well. Lastly he mentioned a statute of limitations. It provides for statutory periods whereby the claimant can sue the insured. He said he could find no limitation on when you can bring an action in tort once you reach the threshhold. There is the possibility that you might not reach the threshhold for two years and you are limiting the period of action to two years from the date of the accident. The original bill did provide for a tort limitation. This was on page 27. He concluded by saying that he hoped the committee would consider what he said today and thanked them for listening to him. He distributed some information on bill comparisons in other states.

McVeigh said the thrust of the Bar testimony was to lower the threshhold. Allan agreed with this.

Orsini moved to adjourn at 5:15 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, March 5, 1973

Chairman Tillion called the meeting to order at 4:45 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Malone, Tillion, Beirne, and Kaden.

Privilege for Reporters

HB 84

The chairman said the reason we were meeting today after adjournment in the House was to hear Peter Bridge, a newsman, on HB 84 - Privilege for reporters. He said Joe La Rocca wanted to be here and is opposed to this legislation, but due to other commitments he could not appear today.

Chance noted that it was rather unusual for reporters to cover the activities of other newsmen. Mr. Bridge said this had become a habit for him.

Mr. Bridge presented a general statement in writing to all committee members. He is in favor of absolute immunity for people in the news media. He said we might feel that Alaska shouldn't be too concerned about this since they have only a small population in comparison to other parts of the United States. He said he disagreed with this point of view and felt the press in Alaska as elsewhere has a responsibility to the people. He said that shield laws are nothing more than an elaboration on the First Amendment of the Constitution guaranteeing that newsmen would be able to execute their responsibility having a free flow of information to the people. The people need this information since this is their only access to some types of information. He said he had had several discussions on the question relating to the shield laws and whether or not this would be construed as a potential violation of the First Amendment. He could not see where an absolute shield law would abridge anything. He said this is important to Alaska because this state is on the brink of great affluence with the oil fields being developed. With the extra money that is going to come into the state you will need to shield investigative reports to uncover corruption that accompanies wealth. If the press doesn't fulfill its role as watchdog of government, then you can look forward to widespread and unarrested corruption. Mr. Bridge said if we passed anything less than absolute immunity for newsmen we would be wasting our time. He said any conditions would in effect destroy any immunity. He said we would prefer that we pass no bill if conditions were added. Of the 18 states that now have shield laws, 13 are absolute. He said that was what happened to him in New Jersey. The court construed that the condition was a waiver of immunity.

Mr. Bridge gave an example of what happened to him last summer. He said he wrote a story in which he determined that a city attorney was in a position of conflict of interest. He own law firm was doing business with the city. This statement

HB

Shield Law

of fact was substantiated by the lawyer himself on affirmation of the situation. A few weeks later he publicly said he was going to sue me for libel. He wanted to know where the information came from. He wanted to punish the source of the information. He said he had an idea that if libel were excepted and the constitutionality not proved to the satisfaction of the Supreme Court, you would see a spate of civil suits.

Mr. Bridge felt this immunity should apply to more than newsmen. He said there are publishers, editors, heads of the three major networks, etc. These should be included. Chance asked how the news media's responsibility would be maintained. Mr. Bridge said your pay check is the policing. If you delve into bad practices, you no longer are able to get hired as a reporter. He admitted that there is or has been irresponsibility at times, but it is pretty well controlled. He also said that it was hard to prove libel now since the Sullivan vs. New York Times case. Now you have to prove malicious intent. This is very hard to do.

Mr. Bridge told of his own case. He said it was very unusual in that it usually takes two years to process a case to completion. It took him 4-1/2 months from subpoena to jail. He was jailed for 20 days.

Rep. Meekins asked Mr. Bridge to tell about the discussion with a press group on the definition of "newsmen". Mr. Bridge said this involved a discussion of just who should be covered under the shield law. He said in New Jersey it was defined as anyone who is responsibly engaged in the free flow of information as it related to the media. He said that a person in this occupation would still have to prove their stories, but not reveal the sources of information. He suggests that we make the definition of newman as broad as possible. This way everyone will pretty well be covered.

Rep. Miller asked what you would do about the person who just manufactured information about someone--out to get them. The newsman says it is from a news source that he will not disclose. Mr. Bridge said there are remedies, but they are not always available. He gave an example of such a happening. He said in this case another newspaper began an investigation due to the stories and found this was a scurrilous attempt to dirty the name of a potential candidate. The obvious remedy is competition.

What, in effect, will happen if you don't have a shield law, is newsman will start leaving controversial information out of their stories. Also the sources of information will dry up and it will be almost like censorship. This results in a controlled press. Mr. Bridge wanted to stress that this is not specifically for the press but for the people who need a free flow of information.

HB 84

Shield Law

Rep. Parker asked Mr. Bridge to comment on the language on Page 4, Lines 5-7. Mr. Bridge said he did not know why we added "or articles" on Line 10. Parker said this was to include the person not normally in the business. Bridge thought you might run into a judicial problem with that wording. He said he objected to the term "reporter". He thinks the city editor should be included because he may be the first to know about some information and is most likely to know the source. He thought you could say "news person" so it would not single out newspaper reporters. He said he didn't bring the New Jersey statute with him. He felt it was the strongest shield law in the country. He said he would send a copy to us when he returned home. He felt that this bill would do the job, though.

Andy Williams asked Mr. Bridge if he felt his case had anything to do with New Jersey's shield law. He said it did because they called his lawyer and he wrote part of it. At least they drafted the bill from information obtained from his lawyer. They called a special session of the legislature. Mr. Williams then asked that since the First Amendment had sufficed for 175 years, did he feel that the next administration or clamp down by state government has necessitated this type of action. He said he felt that it did because absence of law according to the Supreme Court decision would not allow immunity. Mr. Williams asked if there should be some sort of law to require the newsman to report anything of which he was aware that dealt with a crime or commission of a crime. He said if you did this you would destroy the shield.

Tillion asked if sometime stories were written about politicians that are not completely true--all details not filled in--and it wouldn't affect the individual too greatly that wouldn't make too much difference, but when it comes to a businessman it could ruin his business. Mr. Bridge says this does happen sometimes but a free flow of information to the public can only in the end result be healthy. If you add restrictions this then becomes unhealthy. Chance noted that Mr. Bridge had earlier shown that the news media is better self-policed than a lot of other licensed professions. She said it was her experience that this was true.

Tillion said that Tom Browne and Joe LaRocca were going to testify on this bill at a later date.

Meeting adjourned at 5:50 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, March 6, 1973

Chairman Tillion called the meeting to order at 3:50 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, Banfield, and Kaden. Malone arrived soon after convening.

Confident. Bank Records

HB 95

There was some discussion on CSHB-95 - Confidentiality of bank records. Malone and Kaden had worked this version over and it was presented to the committee. He said he thought the committee wanted this to reach only valid inquiries that had to be from and to financial institutions. Hayden said that as it is written it does not allow others to get this information. He said this version was made to apply to all financial institutions in Title 06. Banfield noted that this was not what was on the CS and Hayden said this was a typists error. This will be changed. Mr. Don Magnusson said this would do no good unless credit reporting agencies are included. Banks can already make these exchanges using code numbers, etc. (Chance arrived 3:55 p.m.) Tillion asked what was the arrangement for credit agencies in the state. Couldn't we open it to them without including anybody extending credit? Malone felt this was possible but we were not doing it in the CS. Tillion suggested adding "some duly authorized or licensed credit agencies." Mr. Magnusson said we should add as regulated under a particular statute. Orsini asked what the intent of this provision was and Mr. Magnusson said the only information to be given out was as to pay habits. Malone said he didn't feel this should be put under the section of law dealing with banks. The committee wanted to have this drafted so that it covered credit reporting agencies. Malone asked what provisions we had in statutes covering credit agencies. Hayden said there were no state statutes but they were covered under federal laws. Malone said the reason he asked is he wanted to be sure there are some regulations and that the credit agencies are responsible. Malone said he would like to know what the federal statutes are for these agencies. (McVeigh arrived 4:07 p.m.) McVeigh said he didn't know of any state statute, but this is only to give out information regarding payments habits. Hayden will check the federal statutes for consideration at a later meeting.

Limited Entry

CSHB 126

CSHB 126 - Limited Entry to Fishing. Tillion said we had the CS from Resources and there are two things he would like to see changed. He said it was the intent to cover all fisheries. The way it came over, it did not automatically cover all fisheries so there were a series of amendments that he proposed to make this change. The committee agreed that all fishing resources should be included under this bill. A CS from House Judiciary will be drawn to cover this. Banfield said that maybe Resources did not want to cover all fisheries for some reason. Tillion said they wanted to do this but left it to the Commission to decide which fisheries should be covered. Chance said Resources bill addresses itself to the situation after depletion and our proposal would address itself to before depletion.

Limited Entry

Tillion said that under this bill the Commission shall establish how much gear should be used when a new fishery begins. They also have the power to increase gear when necessary. It was asked why we needed section (b) and Tillion said the Governor's attorney recommended that it be left in because that is what the constitutional change had in it. Tillion said he worked with Mr. Jackman on this and he preferred the bill to be as close as possible to what Resources had but to include all fisheries.

Malone asked about the provision that a man must give six months' notice before he can dispose of his entry permit. Tillion said the purpose was to protect someone from selling it in the bar in the winter. Tillion didn't think this would cause a hardship on 99 per cent of the fishermen.

Tillion said there was one other amendment with regard to gear units. This is on Page 7.

Banfield asked if there was a definition of "family income". Tillion said this followed the guidelines of Social Security.

Malone said this bill was covering commercial fisheries relating to salt water and asked if this would apply to fresh water fisheries. McVeigh said the only one he knew was the natives' white fish industry and that was under subsistence. They can sell up to 1,000 pounds of their surplus catch in a subsistence fishery.

On Page 12, line 6, under transfer of permits. This whole section will be deleted and a new section added. This was basically put in by Legal Services with the fear that the native would sell his license during the winter while in a bar. Tillion did not think it would cripple the fisheries in any way. There is a hardship clause for transfers even for temporary conditions. Orsini asked if you could borrow money on your entry permit. Tillion said you could borrow on your boat and gear but not on your permit. McVeigh asked if this would be like a liquor license that becomes an asset of value and this is to be treated as a license and not an asset. Tillion said it would be halfway between the two. One of the basic purposes was that as the number of fishermen decreases the licenses will be worth more.

The next amendment dealt with a time limit for applying for entry. A person must apply within one year to be eligible. That would be one year of the effective date of this act. If you didn't apply within this time limit you would no longer be eligible. Tillion said it didn't make any difference to him on this point since all the other criteria were satisfactory. Orsini asked how it would be determined who would qualify for an entry permit. Tillion said that it varied. Trolling would include anyone who has made a delivery within the last three years.

CSHR 1

Limited Entry

There was some discussion on how this would be handled in certain areas of the fisheries. In Cook Inlet the decision was to cut out 25 per cent of the gear because of the large amounts of gear. It leaves these decisions up to the Governor's Commission. McVeigh asked why the commission was exempted from the APA. Tillion said the AG's office recommended that because they will be hearing cases in Bristol Bay where they are really cutting down. It was asked if there was need for a severability clause. Hayden said this wasn't necessary since this is in general law for any statute.

Tillion said that due to the overcapitalization of the fleet the United States has dropped from second to eighth place in the world fisheries. This is an attempt to turn this around. He said the Japanese are very vulnerable and as inefficient as we are, we are still competitive to the Japanese on their high seas gillnet fishery. If we reduce our fleet and modernize a bit we could take over from them. We would get a competitive advantage over them.

There was some discussion as to what a unit of gear was. Tillion said there were set amounts of gear for certain fisheries. McVeigh said the amount of gear according to the bill was based on the number of units fished in the preceding four years. That may be well over the optimum allowed. Tillion said this would be handled by assessing every license holder so much a year to put in a buy-back fund and anybody who wants to sell a license or boat, gear, and license can do so. He does not have to sell to the state. When the optimum is reached there will be no more buy-backs. Tillion said the easiest way to sell was to the state and eventually they would reach the proper level. This was proven by Canada. McVeigh asked if more than one fishing entry permit would be allowed for different fisheries. Tillion said you could have one permit for each fishery for which you qualify. You would also be assessed for buy back in each fishery if necessary and also would pay the necessary license for each one.

Orsini asked how you would repay a loan if something happened to you. How would the bank get its money back? Tillion said you could only loan against your boat and gear. Malone said there was a hardship clause. You could transfer your entry permit in this case. That way the boat could keep fishing. No person can hold two entry permits in the same fishery. That is why a cannery cannot do this. Malone asked if there had been any testimony from the cannery industry on this. Tillion said there had and all of it was in opposition to the bill. He said their biggest objection was that they had no way of enforcing contracts between fishermen and the cannery. Tillion said they had this fear because right now they finance most of the fishing operations in the state. Fishermen don't go to a bank for money, they go to the cannery. The cannery says they will have to deliver their fish to them. Also if you have a bad year, the cannery does not take your boat like a bank would.

Limited Entry

CSHB 126

Tillion said there were other reasons for dealing with a cannery. They usually have a machine shop and if your boat breaks down you can get it fixed and back fishing in the shortest time possible. There are certain advantages but you are under their control. They used to change fishermen if they had problems, and this bill will not allow them to do that.

Malone moves that the amendments be encompassed in a committee substitute by the Judiciary Committee. There was no objection.

Tillion asked if the committee wanted to adopt the amendment by Eliason with regard to the one-year time limit to pick up your entry permit. Malone wanted to know how this would affect the date of the bill, because you have to have an entry permit. Tillion said that maybe you were gone from the state for some reason and did not hear about this law. As it is now you would be eligible if you had been here. To an Alaskan this would be an advantage, because it would be outsiders that you would be eliminating. Those living outside might not hear about the bill until the deadline had passed. Malone felt this was a reasonable provision. This amendment was to be included in the CS.

No-Fault Insurance

HB 187

McVeigh reported on CSHB 187 - No-Fault - and said that he would be meeting with Dan Hickey, from the AG's office, in the morning. He was going to have Mr. Hickey take him through the bill and prepare a short paragraph on each of the sections so that when we meet and discuss the bill we will have a brief explanation that we can understand. This will be typed up and made available to committee members.

Nursing Board

HB 86

Banfield moved to take up HB 86 - Nursing Board. Rep. Beirne will carry this on the floor. Malone said there was some change in the makeup of the board but this change was acceptable to the nursing association. The people in the profession felt it was more important to have competence rather than have representatives on a geographical location plan. Orsini said he agreed with their concept. Banfield moved this bill out with a "Do Pass" recommendation and asked unanimous consent. It was signed out unanimously.

Point System

HB 9

The next item for discussion was HB-9 - Motor Vehicle Point System. Tillion said this CS was developed from Randolph's and Warwick's bill. Under this bill you can't assess more than six points for any one offense. Mr. Hickey can answer questions on this bill.

Campaign Expend.

HB 257

HB 257 - Campaign Expenditures. Tillion said he felt there were a few changes that should be made to this bill. Money for elections should be deposited with the Lieutenant Governor's office. Banfield asked if this meant all expenditures would be sent out of that office under his signature for any use of the news media by candidates. Tillion said he thought this would be all right.

HB 257

Campaign Expend.

Malone asked if you post your money by a certain time or would you be allowed to just send it in. Tillion thought you could send it in. Tillion said what he considered was the values because your amounts can get pretty high. McVeigh said consideration should be given to the areas covered in a campaign. It is more costly in the larger areas of population.

Banfield said as soon as you set a limit that is what it will cost to conduct your campaign. Tillion felt that $2,500 and $5,000 was plenty. Malone asked the prime sponsor what he considered a "newspaper" for the purposes of this bill. McVeigh felt this would be any paper that is made available to the public and sold as an instrument of news. Tillion said the "Guardian" wouldn't be covered. Malone said there was a paper in his area that was sent out without cost to the public. McVeigh said we could put in a definition. Banfield then asked if this included the TV Guide. McVeigh felt there was a certain amount of value in keeping it to ones held out for sale. You may want to print one up for your own campaign and you wouldn't want this cost included. Orsini felt it should be any vehicle that sells advertising to the public. Malone said what we were trying to cover was advertising that is costing money. If there is a newspaper that does it free it shouldn't be considered a newspaper in that sense. This should be limited to what the candidate pays for. McVeigh agreed because it is the amount of money spent in the media that we want to limit. We also want to avoid a candidate having to seek huge sums of money in order to carry on his campaign thereby selling himself in the process. Tillion said he would like to reduce the amounts on lines 16 and 17 to $2,500 and $5,000. Malone objected to the differentiation between candidates of the state house of representatives and state senate candidates. You have to reach just as many people in each instance. He felt it should be considered on a per voter basis--say 50¢ per registered voter taken from the last general election. McVeigh felt we should think about this and have it ready to discuss for tomorrow. Some way it should be tied to the registered voters. That is more easily defined.

Executive Budget Documents

CSSB 13

CSSB-13 - Executive Budget Documents. This was referred to Rules Committee. It requires that copies of the budget document shall be available for distribution the same day as the Governor presents his budget to the legislature. Banfield said that now we are starting the session on the third Wednesday of January this should be no problem. McVeigh moves it out "Do Pass" and asks unanimous consent. All signed "Do Pass".

McVeigh moved to adjourn at 5:40 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, March 7, 1973

Chairman Tillion called the meeting or order at 3:42 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Tillion, Banfield, Orsini, McVeigh, and Kaden.

Limited Entry

CSHB 126

Chance moved to adopt the CSHB 126 - Limited Entry. Orsini objected because he did not like the six months' time limit before transfer would be permitted. There was further discussion. The CS was adopted. Chance then moved CSHB 126 out of committee with a "Do Pass" recommendation and asked unanimous consent. There was no objection and it was signed out "Do Pass" by everyone present.

Confid. Bank Records

HB 95

The CS for HB 95 was reported on. Hayden said he had checked on the federal statutes that covered credit reporting agencies and had a copy of highlights of the federal statutes covering these agencies. This law would cover such reporting agencies so if referred to as under federal statute and give the number this should cover them. Tillion said we had to cover the reporting agencies because banks can exchange this information now. (Malone arrived 3:50 p.m.) This includes the paying habits of depositors and not their bank balance. Hayden said he thought the way it was written it would cover Penneys. Mr. Magnusson said they wouldn't be included as a credit reporting agency under this law. Hayden said if you relayed this information to a third party then you would come under the federal act. He felt that anybody that might relate third party information would be allowed to receive the information we are talking about under this bill. Mr. Magnusson said he didn't think they would be eligible and they don't do it anyway. It is easier for them to go to a credit reporting agency rather than call people themselves. Malone said he would like to see the full copy of the law because he didn't think this brochure was complete enough. Malone said he didn't know how we could incorporate this into our law and where it would fit in the statutes. Kaden said this would not be necessary because it is already federal law. Hayden said paragraph (5) notes the reference to the federal statute. (Banfield left at 4:00 p.m.) We will defer action on this until Malone checks the federal statute. It will be considered again tomorrow.

Point System

HB 9

The next item was the point system, CSHB-9. Tillion said that Ivan was available if the committee wanted him to go through this with them. He is the attorney that drafted this. Mr. Randolph is also here to explain his bill. Mr. Randolph felt it would be beneficial to have Ivan explain the bill. Randolph said he had made substantial changes from the original bill. There also was a bill put in by Public Safety on the point system. There differences in those two versions. The primary difference is the way the offender is treated.

HB 9

Point System

The person doesn't come under any big problem until he get 12 points. In the other bill he gets into trouble after 6 points. They can then send you to training classes, or other things in which to rehabilitate you. At 12 points you lose your driver's license. Public Safety did not take a stand on this bill one way or the other but said they could live with this, but they are in favor of some type of a point system. Orsini asked about the person who needs to make a living by either driving to work or having an occupation requiring driving. Randolph said this left in a provision for temporary licenses. He didn't think it should be in there because this applies after the person has reached 12 points. Orsini asked if there was a mandatory revocation. Randolph said not in the bill. Under the other bill they start working with you on rehabilitation after you reach 6 points. The maximum number of points you can be assessed is 6 points for any one offense. Tillion said the only failure he saw in the bill was the provision for an interim permit being allowed once you hit the 12 points. People will just have to realize they will have to have someone else drive them to and from work. Orsini agreed that when you reached the limit you should not be able to get an interim license.

Malone had a question on lines 22-24 where it mentioned the difference in levels for points of young drivers and adult drivers. He wanted to know the reason for difference. He felt all drivers should be treated the same whether young or old. Randolph said the Department would set up the point limit. (Banfield arrived at 4:15 p.m.) Orsini felt that young drivers should be subject to the same rules as everyone else. Mr. Hickey said this section is referring to the driver improvement part of the bill and that was why the lower number of points would bring young drivers in for rehabilitation services. They would have to take corrective training and this is easier for young people than for people with long-time driving habits. When they have six points then they have to come in for a driving improvement interview. He may even be requested to take another examination. He may also be required to take a driver improvement course, and with a juvenile they can have him come in say at 4 points instead of 6. The juvenile would have to take the course, etc, earlier. Mr. Hickey said it should be understood that the points are counted the same and when they reach 12 points they are dealt with the same as adults.

Orsini asked why they had taken out the definitive points in the original bill. Mr. Hickey said it would be more flexible to do this by regulation because they can change it when necessary. This is also the approach used by the Uniform Vehicle Code. He didn't think the legislature could think about every offense that will ever occur and assign points.

Point System

Mrs. Banfield asked for an explanation for (e) on Page 2. This referred to assessing points for offenses committed out of state. Dan said departments exchange this type of information regularly. Banfield asked what if it was a speed trap. McVeigh said it is usually the practice in circumstances like this that you just pay the fine and go on your way. It would take too long to wait until you could go before the judge, so you just pay even if you're not guilty. Orsini said there is a tendency to stop out of state cars anyway. Hickey said he didn't think this was that serious of a problem. He said we needed to have this provision because we have to have reciprocity with other states when we suspend a license of a driver here. If he applies for a license in another state, they won't give him one if we exchange this information. McVeigh said a person is only supposed to have one license so this shouldn't be a problem. Hickey said it was purely a question of policy. What value were you going to place on the adjudication in the other states.

Banfield then asked how much bookkeeping this would make for the commissioner. Hickey said most of this is computerized and he would only be required to enter the court disposition of the case.

Chance noted that McVeigh had a point about driving outside. Just for convenience you pay the fine because you have to take your trip. Isn't that covered in the administrative review? Hickey said the determination was subject to challenge. Orsini moved to delete lines 25-27 on Page 2 and asked unanimous consent. Hickey said he felt the committee should realize the risk that is involved. We won't be able to expect other states to honor our convictions. Chance felt we could go back to the administrative review section and then you could appeal to have those points removed. This is on Page 9, Section (h). Dan said these can be appealed if they are under the issues allowed starting on Page 9. There would be tremendous proof problems. How could you prove you weren't guilty of some infraction in another state. He didn't see how we could legislatively provide for elimination of such points. Orsini said he didn't object to keeping track of violations in other states, but didn't think points should be assessed for them in Alaska. McVeigh also noted the differing conditions in another jurisdiction. Take freeway conditions, for example, you may become confused and make some mistakes that you didn't know was wrong in their ordinances or laws. Maybe you were traveling too slow or maybe you started down a one-way street just because you were not familiar with conditions. In these cases if you forfeit bail it is the same as a conviction and you will be assessed points for it in Alaska. He just thinks it is unfair. Hickey didn't think it was critical, in any case. Chance felt there should be some consideration given because you were not acquainted with the layout of the community. This bill would assess points for such things. Hickey said you usually get

tickets for doing something you aren't supposed to be doing. Malone thinks there should be more consideration given to this point.

Point System

Malone returned to the age noted for which the department could call them in sooner. Why is it 18? Why not go up to 24 in this category. Hickey said it was 18 because the statutes make a distinction now at 18 and any young driver up to 18 has to have his parent's signature before he can get his license. That is the reason for using age 18. Logically it could be 24 and still serve for purposes of rehabilitation. Tillion said we could take that section out. It is only one sentence. Malone said the reason he was concerned about this section is that if you don't appear for this conference your license can be suspended for 30 days.

Randolph said if you left that in about out-of-state offenses it would be a little bit unfair, but he felt that 90 per cent would be treated fairly. The reason for the early call in for younger drivers to like preventative medicine. Malone said his particular objection to this clause is that the level of difference in point accumulation. Just say this applies to any driver. Tillion suggested we do what Malone said on page 2 and let the bill go out. Orsini also had his amendment. Malone said he didn't want to change the bill but he didn't think young drivers were the only ones that could gain from correctional programs. Chance said there were some statistics from last year that showed older age groups are showing noticeable improvement and receiving fewer citations after going through a defensive driving program. Malone decided not to move for an amendment to cover this point. Orsini asked for his amendment on Page 2, lines 25-27. Orsini, McVeigh, Banfield, Chance and Malone voted Yes on Orsini's amendment. Tillion voted No. Motion passed and amendment was adopted. Banfield moved that this bill go to Finance Committee because it has financial implications. Tillion felt the Speaker could do this. Chance moves to pass this bill out with a "Do Pass" recommendation. McVeigh and Banfield object. Chance and Tillion voted Yes; Banfield, McVeigh, Malone, and Orsini voted No. Motion failed.

Malone asked what a "judicial" review was on the point system. Hickey said basically once an individual hits 12 points in one year the department can do a number of things. The individual can request an administrative review of the decision to suspend. This is on an informal basis. He has to set out the issues he wishes to appeal and these are limited according to the items mentioned in the bill. If the department determines these issues against the licensee the department action is sustained. If these same issues are brought up at the administrative hearing, decided in favor of the action of the department, the individual can appeal that decision to the district court. It is a three-pronged appeal, administrative review, administrative hearing, and then district court.

The individual can merely take a suspension into court and get himself a limited license.

CSHB 187

No-Fault Insurance

Tillion said we would now move on the CSHB 187 - No-Fault insurance. McVeigh said he wasn't ready to vote on no-fault. He is still working on Randolph's changes. He found there have been some changes in theory. He thought at first it would only be the threshhold that was different. There is the Governor's approach and Randolph's approach and they are different. Tillion said he would have preferred to add the property damage--fender benders--but we are trying to get this on the floor. Malone asked if McVeigh had the synopsis for the committee. He said he had talked with Mr. Hickey and they would have this on each committee member's desk on the morning this bill will be placed on the calendar. This will be a section by section analysis then when it goes into debate you will be able to understand what each section does. McVeigh said he would not put the bill on the calendar before Monday because the analysis would not be ready until then. McVeigh is meeting with Hickey and Engstrom tomorrow. Tillion asked McVeigh if he thought that damage to vehicles should be reincluded in this bill. He said he personally thinks it should. There are differences in philosophy in the three versions; Governor's, Randolph's, and Engstroms.

Randolph said there are some substantial changes in the way the Governor's bill came down. One was the threshhold on pain and suffering. Property damage was taken out altogether. If death occurs you can sue anyway. Randolph said that no state when it went into no-fault had property damage included, only bodily injury. Massachusetts and Florida have gone into property damage now. Michigan has included this now, also.

The other major change Commerce made was to lower the threshhold from $87,500 to $50,000. He has lots of material in his files and members of this committee are welcome to obtain this material. The main reason for no-fault is that there are significant delays in paying for serious injuries. You cannot recover lost wages under the present system, but under this it is provided for. If you go above the $2,000 threshhold on medical then you can sue for pain and suffering. Tillion said he thought the medical threshhold should be $5,000. Liability is 20 per cent of the premiums, according to testimony heard in Commerce Committee, and the tort liability is 36 per cent of the total cost. That means that much is lawyer's fees. Randolph clarified that by saying the 20 per cent is for bodily injury and not property damage liability. Tillion said we were trying to help people who were getting nothing under today's system to automatically be covered under this thereby receiving benefits. Malone said he would like to review this further without taking further testimony.

No-Fault Insurance

Tillion asked if we wanted to send the bill out as Commerce sent it to us, or does the committee wish to add the fender benders. Randolph said you should remember this is compulsory and if you include property damage then you are insisting that people buy collision insurance. Hickey said the main reason for not including property damage was strictly because of the cost. If it is excluded it will affect a cost reduction you realize in passing no-fault. Under the present system you have duplication of coverage. He gave the example of a person having collision insurance and also have uninsured motorists coverage. You have property damage. You cover your car and also damages to another person's car. Under no-fault this will be covered only once. Chance asked if they had different rates for different vehicles. Hickey said they did. It is because your property damage liability reflects the automobile driven by the other party. Hickey said you could get your basic loss coverage from one insurance company and the optional collision insurance from another. Tillion noted that the bill did not require that insurance companies lower their rates.

Randolph did not agree with Dan on double coverage. Dan mentioned you have duplicate coverage. You are buying premium for both and buying it twice. This is not true. It may seem this way because you have two coverages, but it is like buying a whole pie, half a piece here and half a piece there. Physical damage is taken under either. If you pay for it all under one coverage it will cost you more. He said it was not the insurance companies who started no-fault it was the stock companies. They devised the first no-fault system to be operated like workmen's compensation as a vehicle to get more business through mass marketing. There is a conflict within the industry. Mr. Hickey read some comments on this from the National Conference of Commissioners. This pertained to the uniform act. He said total insurance costs will be reduced because there will be a loss in assigning responsibility. Many of the systems cost more under no-fault than their present systems. For the person who has collision insurance it will probably go down. Tillion said that was why he wanted property damage in here. The man driving the old car will have a low premium and the man with the expensive car will have to have a high premium. It will be based on the value of the car. This is the decision the committee will have to make.

Orsini said he would just as soon see it go out as is. Malone wanted to look at it one more time. Chance requested that it be the first order of business for tomorrow's meeting. She would like Mr. Hickey to go over it one section at a time. Malone requested more consideration of the threshhold when Banfield and McVeigh can be here.

Chance said she didn't know why you couldn't require that a person take certain types of coverage and list what the premium would be. If they didn't want it they could reject it in writing. Randolph said this missed the limitation of tort.

HB 187

No-Fault Insurance

Tillion agreed and said the tort costs are large. Chance suggested issuing first party insurance coverage; everything then would be decided behind closed doors by the insurance companies. Dan said this would cost too much money. He said as it is now, for premium dollar paid in, there is very little that goes back to the policy holder. It is minimal compared to health insurance which returns 93-95 percent to the insureds. Hickey said the CS addresses itself to the problem of undercompensation for the seriously injured as well as the problem of the overcompensation for those not seriously injured.

Malone asked how this would affect the Financial Responsibility Act. We will continue discussion on this tomorrow. Randolph noted one more point. There is a 20-day clause before a person can cancel his insurance. The insurance company has to notify the state that the cancellation is taking place. There is also a great discrepancy when you rate a person on his economic loss. The 70-year-old will have low rates and some one with a family and a pretty good income will have higher rates. He thinks it should be something like it is now. Insurance companies look at what kind of a driver you are and under no-fault they will look at what kind of a victim you will be. Premiums will be set accordingly. Hickey said to put a limit on other things but not on medical.

Malone moved to adjourn at 5:45 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 8, 1973

Chairman Tillion called the meeting to order at 3:50 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, Chance, Malone, Beirne, and Kaden.

Probate Code

Tillion said we had SB-140am before the committee. Russ Mulder can tell us about that one. This is really a revisor of statutes effort. Some things were not corrected in other laws after the Uniform Probate Code was adopted. There were several little mistakes in the bill last year and this bill just picks up those errors. SB 140 am

Real Est. Surety Fund

We also have HB-248 - Real estate surety fund. Mr. Eastaugh said he is going to send over a brief on this bill. He is opposed to it. Chance said bonding company would oppose this. Tillion said the purpose was that after they reached $50,000 in the surety fund they didn't want to put any more in it. This won't cost any more than it does with the bonding companies. Tillion thinks we should do this with contractor's too since we have passed their bill. He thinks they should keep paying in but everything over the $50,000 should go into the general fund. Banfield said bonding companies don't give you a bond unless you don't need one. (Orsini arrived at 3:52 p.m.) HB 248

Confid. Bank Records

CSHB-95- Confidentiality of bank records. Malone said that he has checked the federal statute on credit reporting agencies and would like to report his findings to the committee. He gave the definition of consumer reporting agency or a credit reporting agency. This is any person for which fees or on a cooperative basis regularly engage in the practice of assembling or evaluating credit information for the purpose of furnishing consumer reports to third parties. This applies to any means of interstate commerce. He didn't think that would cover such reporting agencies in this state but only those engaged in interstate commerce. Mr. Magnusson said that all credit reporting agencies in Alaska have agreements with outside the state and transfer information. Chance said even if this was so, the reporting agencies in the state that fall under federal law would be able to exchange this information. Malone said the federal law covered a lot of things. Credit transactions involving a consumer, use of information for employment purposes, underwriter's of insurance, determination of the consumer's eligibility for licenses, etc. are covered. Tillion said this bill only covered revealing a person's payment habits. The amendment will say on line 27, after "title" add "under the Fair Credit Reporting Act, USC so and so. Chance moved to adopt this amendment and to include it in the CS. She asked unanimous consent. All voted yes except Malone. Banfield moved the bill out of committee and asked it to be unanimous. Orsini, Tillion, Banfield voted Yes; Chance, and Malone voted No. H. 95

Citations Vehicle & traffic offenses

SB 24

SB-24 - Relating to citations/vehicle and traffic offenses. Hayden said that when one receives a moving violation there are no printed schedules of fines. This allows a maximum and minimum to be set by regulation. There is no way now that one can avoid going to court for these little violations. In most states you can just go in and pay the money and then you don't have to lose work time. This says that the Supreme Court has the duty to set the appropriate fine for each offense. There would still be certain offenses for which you would have to make a court appearance. Tillion said he understood that the Judiciary people agree with this. The public also likes it. Banfield moved SB-24 out of committee and asked unanimous consent. Malone voted No; Orsini, Chance, Tillion, and Banfield voted Yes.

Citations for Misdeam.

SB 25

SB-25 - Issuing citations for misdemeanors. This does about the same thing as SB-24. It allows a peace officer who arrests a person for committing a misdemeanor or violates an ordinance to issue a citation instead of arresting the person and having them booked at the jail. He can just give you a ticket. It is not mandatory and it is left to the discretion of the officer. Chance noted that SB-24 referred only to motor vehicle offenses and SB-25 is for violations of an ordinance. There were some examples of things that would come under this law. Disorderly conduct, breaking windows, putting paint on buildings with a spray can, etc. Malone said jaywalking would be included. Banfield asked about where it said the officer would decide if the person he was citing would not appear later, then he would take him to be booked at that time. Tillion said that would include somebody who is on a boat, they may be leaving the next day. Chance moved that SB-25 be passed out of committee and asked unanimous consent. There was no objection.

No-Fault Insurance

HB 187

Tillion said he would like to consider CSHB-187 - No-Fault insurance - but had promised Dick that he wouldn't do this until he was here. Malone didn't know how we could defend this bill on the floor because there will be many amendments offered there. Banfield said if we left it as Commerce Committee sent it to us they would have to defend it. Randolph will carry it. Chance wanted Hickey to explain this to us section by section as was decided yesterday. There won't be many members available for discussion Friday afternoon. It was decided to send it out as Commerce Committee sent it here and Banfield so moved and asked unanimous consent. Tillion requested that it be held so that Mr. McVeigh could sign it. The Commerce Committee substitute for HB 187 was signed out.

Chance moved to adjourn at 4:50 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, March 12, 1973

Chairman Tillion called the meeting to order at 3:50 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Orsini, Tillion, Malone, Banfield, McVeigh, and Kaden.

Campaign Limitations

The first item for consideration was HB-257 - Campaign Limitations. Banfield doesn't know how you would determine the correct amount for each district. Tillion said that just because a person was running for the senate instead of the house they get more. He didn't think this was fair. Malone thought the amount should be attached to a per voter head count. Tillion felt this would be more equitable. Orsini felt that way about statewide candidates also. None of the other members did because there was a difference in running locally and running statewide. There was mention made to the bill put in by Rep. Bradner. He recommends $1,500 for local and $7,500 for Governor for primary and for general. Tillion noted that it would be possible to enforce the per head figure. Orsini said we should add another section and put in the per capita number not making any reference to which race. McVeigh noted that every session he has been in the legislature there has been a bill on campaign expenditures and unless you keep it within provable limits you will lose the bill. If this is restricted to just the limit on the media then this is provable. The media shall send to the Lieutenant Governor's office the receipts and the billings to each candidate. This is fine for a control factor. If you get into anything that is not provable the honest person suffers and the other gains. Chance noted that section 2 was for the protection of the candidate. Unauthorized persons couldn't be making the expenditures. She noted that there was no penalty for the media that does accept information from other than a candidate. Anything had to have the consent of the candidate before printing or going out to the public on the airways. McVeigh suggested making it a $500 fine. Hayden asked who would be responsible for the fine--the girl behind the desk, the advertising manager, or who? Chance said it would be the corporation and they would hold the employee responsible. Hayden said this would be a criminal offense. Tillion said we should make it a civil offense against the newspapers, radio stations and television stations. HB 257

Banfield asked about (f). She wanted to know what you could do about somebody who runs a vicious campaign and comes out with false statements after you have already contracted for all of your advertising. You should give the candidate someway out of this. Malone said the candidate should hold some of his money back just for this purpose. Malone then asked how you would consider it when say an organization in association with the candidate came out with information in support of one candidate or another. This is not spent by a candidate but by somebody else but it does in effect support one candidate and is against another, but it is not a part of the campaign.

HB 257

Campaign Limitations

In the example just given, you would be outspent because they are not unlimited. Orsini noted that you can't buy any radio or tv that close to the election time but if you have a block of time you could change your format. Tillion said that the smear articles are left for the last issue before the campaign is over. McVeigh thought we could require that anything submitted later than two weeks before appearing in print not be allowed. You might eliminate the smear problem and also attach to it that every candidate had a right to review ads affecting his reputation. Tillion didn't want to give the candidate the right to muzzle the paper. Chance felt it would be a good idea if there is an attack or something would affect the reputation of the candidate that the media would be required to advise the candidate of its contents or at least offer that you can review the information. Malone agreed that that was one way of doing it. Another way would be to prevent other persons or organizations from buying advertisements except that the candidate or his campaign manager could do this. Tillion didn't think you could do this. Chance said she felt the candidate needed the opportunity to review such material in order to provide an answer. Tillion stated that if you allowed this then you would have to block off some time for the last day or two before the election was over. You would only be able to review material that mentioned your name or by other means you could recognize who was meant. Orsini asked the committee to consider putting in a submission limit of two weeks before publication. Tillion said he was not in favor of this. Chance felt that two weeks was too long and that 48 hours would be better. McVeigh said that he felt that a candidate ought to be able to see what is going to be said about him, against him, or for him prior to it becoming public knowledge. The candidate would have no right to interfere with publication. Chance said the FCC rules and regulations require that now but it is violated all the time. They are supposed to tell you that your name is being used. Then they are supposed to give you free time to answer any statements made against you. If there is an attack on you, the media should notify you and you should be allowed to answer on free time. McVeigh asked what an "attack" was. Orsini wanted to know if your voting record was an attack. Chance said it wasn't because it was public record. Tillion felt that the only thing that would work would be the requirement that 48 hours before closing time you could look at the ads that mention your name. McVeigh said there would have to enough time to prepare a rebuttal that could appear in the same issue. This will be worked on further.

HB 210

Military Code

HB-210 - Military Code. This adds a naval militia. Chance said it was a new arm of the National Guard. Chance moved to put this bill out of committee. Hayden asked what was meant on page 4 with regard to the board. The members shall be--this is unclear. Is this medical or civilian?

Tillion asked if he meant whether they were military physicians or civilian physicians. Hayden wanted to know what the combination would be since there would be three. Tillion didn't think it was worth making the change. Chance suggested to delete "of a combination" on Line 18, Page 4. It was decided to leave it as it was and act on Chance's motion. It was signed out unanimously "Do Pass". HB 210

Military Code

Bomb Threats

HB 290 - Threats of bombing. This bill had to do with a person that reported a bomb in the Ketchikan School. They caught him but there is nothing they can do to him. There was nothing in the statutes. Chance said she would like to compare the language with federal law. Malone did, too. Malone asked about word "threatens" on Line 11. How serious would this have to be. Tillion said the courts decide this. (Banfield left at 4:20 p.m.) Hayden will check the federal statute on this. HB 290

Campaign Limitations

Discussion returned to HB 257 - Campaign Limitations. Malone asked if the $500 limitation for contributions in section (c) was very important if what we are trying to do it limit overall expenditures. He said people would transfer funds through other people and defeat the purpose. McVeigh said it was true that you could get around this. He said there had been experiences with this in the federal field. He said certain agencies could not make direct contributions such as banks because the federal statute which limits one source of funding to a candidate to a certain amount affects them. He said the oil companies and insurance companies in Alaska felt they could not risk this in Alaska. It seems to apply to all candidates whether federal or not. This has a tendency to cut down on campaign contributions. He said he was supported by the liquor industry and collectively they contribute quite a bit, but this could limit them to $500. Chance said she had a problem with this section, too, about the language "or permit to be spent by a person on the candidate's behalf." This would even exclude the campaign manager. Many times people volunteer to put an add in the paper for you. This would prohibit that. She suggested to delete that clause and leave the rest in. Malone said he was not in favor of this section. He said he would rather require a report of all contributions over $10. Tillion said if he put this in he would lose the bill. Malone said to forget that last proposal. McVeigh said if you limited this to $500 you wouldn't have formal campaign committees. The Governor would have to have say 500 campaign committees if they could only spend $500. HB 257

Tillion said the purpose for the bill is to get expeditures down. You can come up with the money for the media but who you get it from you can't prove anyway so let's not consider that. Chance moved to delete subsection (c). There was no objection. So ordered.

Malone turned our attention to (b) in subsection 1. You have to file an affidavit saying you did not spend more than was allowed for your campaign. Why not just include what the

HB 257

Campaign Limitations

candidate spends and leave it at that. He suggested that we delete expenditures on behalf of the candidate by somebody else. Malone so moved. Chance asked if we should say "identify" instead of "stating". Tillion would like to just give the total. Malone agreed with this. Malone's amendment was adopted. It now read "stating the amount of his". This is on Line 19, Page 1.

Malone returned to section (a) and felt that we could amend this to be so much per head in the last general election. McVeigh said there was an official publication put out by the state that could be used. It breaks it down very specifically.

Malone asked if this was a limitation that applied to each election separately or total. McVeigh said it was total. Chance suggested that we just give a limit on the total campaigns. Hayden then asked about special elections. McVeigh moved to delete "special elections". Orsini objects. Malone doesn't want to specifically state how much the limitation would be for each election but would give a total amount so the candidate would have a choice. McVeigh said we could have it 50¢ for both primary and general. McVeigh wanted to strike "special election campaigns" because we are addressing this to local campaigns. He did not intend to limit statewide candidates. Tillion would like to include statewide, too, but we did not want to lose the bill. Orsini felt if you used a combined figure for both elections, it would favor the incumbent. They all agreed that the incumbent did have the advantage. McVeigh asked that a committee substitute be prepared covering the various amendments adopted. There was no objection. So ordered.

Malone turned back to paragraph (f), Line 10. He had some reservations on "by more than a reasonable amount". Tillion thought we should take that out. Chance said we already were going to adopt a penalty to see that they got a signature. This would apply to the person who placed the ad without the candidate's signature as well as the media who accepted it. McVeigh said if that was the case then we had better put in a section saying that each candidate shall file with the Lieutenant Governor his designated campaign manager for the purposes of this act. Tillion felt that maybe we have to make it apply to the media only. The committee voted on the issue of combining the total to all elections. All voted Yes except Joe Orsini who voted No. They also adopted the motion on (e) adopting the penalty of $500. Orsini moved to include statewide elections. McVeigh objected. The Governor can't do it that way. He wanted to see how this bill would work then you may be able to include statewide at a later date. Tillion said the CS would be drafted and then broughtbefore the committee again.

Before we include statewide candidates, McVeigh thinks we should talk to the Governor about it. Orsini wanted to cover the Governor and separate the primary and general elections. McVeigh moved to adjourn at 5:05 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, March 14, 1973

Chairman Tillion called the meeting to order at 3:40 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, Malone, Chance, and Kaden.

Point System

The chairman said he would like to move HB-9 - Point System - out of committee. There were some philosophical questions on this, but it was decided to move it on without recommendations. Malone so moved. There being no objection it was so ordered. HB 9

Chance asked if we had reached agreement last time on the out-of-state citations. There was also the question about the way younger drivers were to be treated after they had reached a certain number of assessed points. (Banfield arrived at 3:45 p.m.) Banfield felt there should be a choice for the administration as to whether they will assess the points for out-of-state citations. Tillion said he would rather send the bill out as is without any changes. The bill was signed out as "no recommendation". (McVeigh arrived at 3:50 p.m.)

Safety Glazing Labels

CSHB 205 - Safety glazing labels. This bill just got to this committee but was worked over by the Commerce Committee. This says that when you buy your own house there is no way that the contractor can put glass in that will shatter and cut. Chance said this was supported by the Safety Glass Council. This type of legislation has been passed in at least 20 states. The original bill stated that you would be prohibited from installing glass that did not meet the requirements in hazardous places. This would not apply to the individual who is replacing some glass in his own home. He would not be liable under this bill. The responsibility is placed with the importers, suppliers, and manufacturers of the glass. Mrs. Chance said that a great many of the accidents in the home for children under 15 were glass related injuries. Malone moved to pass this bill out with a "Do Pass". There was no objection. So ordered. HB 205

Bomb Threats

HB-290 - False bombing threats. Hayden has checked the federal law. He read the information for committee members. Hayden felt that having such a major penalty might cause some problems. Tillion asked if we should conform to the federal statutes. It was felt that we should make it as near to the federal as possible. Chance requested this be prepared as a CS. McVeigh felt we should also provide a meaning for the word "threat". That is a vague word. Chance noted that there were two sections to the bill and it would cover McVeigh's point. Hayden suggested a redraft of the federal provisions to include this problem. Something like "wilfully makes any threat knowing the same to be false." McVeigh suggested putting in "wilfully threaten". Chance felt to distinguish between someone doing something in jest we should say "maliciously." HB 290

HB 9

Point System

This makes it clear that there is malicious intent. Banfield asked if this would cover a smoke bomb. Tillion felt the words in here covered this quite well. It was decided to add "incendiary device". Chance moved to have this prepared as a CS. Orsini moved to pass the CS with a "Do Pass". This bill was signed out unanimously "Do Pass".

CSHB 257

Campaign Limitations

CSHB-257 - Campaign Limitations. The CS for this bill has been prepared and only needs the members' approval. Hayden asked them to check subsection (a). He changed that a little. Malone wanted to express himself on expenditures. He felt it was much more important to have some kind of disclosure of monies for candidates. He thinks we should have some kind of disclosure bill, such as HB-20. He realized there would be abuses. This type of thing works on the national level although there are some abuses. He wants to bring disclosure down to the state level. He suggested adding this to the bill we are putting out. Orsini said he did not want to put the two issues in one bill. Tillion said he couldn't vote for a disclosure bill. He said that Ted Kennedy admitted that he only declared 25% of his campaign contributions for the reason that it just dried up the source of his contributions. This was especially those that contributed on both sides. It is too easy to get around. The only sure way is to control the amount spent in the media.

Mike Miller said if we think we are limiting campaign expenditures we were only kidding ourselves. There is no limitation on direct mailings. He also felt there should be no limit on TV. This is because you don't include the cost of putting your TV spot on the air. McVeigh said the bill's limitation is better than we have now. It is simple and provable. Miller (M.) would rather see this stopped in the committee than go to the Floor this way. McVeigh moves the CS out of committee. This bill was signed out with individual recommendations. Tillion and McVeigh signed "Do Pass". (Banfield left at 4:25 p.m.) Orsini and Malone signed "Do Not Pass unless amended"; Chance and Banfield signed "No Recommendation".

CSSB 146 am

Unauthorized Entry Cabins

CSSB-146am - Unauthorized entry/cabins. Banfield asked to report on this bill. She said what prompted this bill was a sad experience by a local ophthalmologist. He had gained permission to use a Forest Service Cabin. He and his family were flown into the area and later that day a group of rowdies moved right in with them. There was no way they could get out until the plane came to get them. This happens all the time and the Forest Service people say they need this legislation. Orsini asked about line 15 where it said you had to have consent in writing. Tillion said this wouldn't work very well for bush pilots often call in and ask if they can use his cabins. Tillion said there was a motion to move this bill out "Do Pass". There was no objection. The bill was signed out "Do Pass".

SB 140 am

Probate Code

Tillion said we had SB-140am before us- Uniform Probate Code. Hayden called to see what other changes would be necessary.

The new bill passed last year did not refer to the people that were performing under this law or give them continuing authority they had under the old act. So they are being included in this bill. Chance said there was also the provision that anybody whose estate was being probated under the old code would continue to completion under that act. Orsini said he wanted Hayden to tell the committee about the changes. Tillion said that Art Peterson will check into this and will discuss it with the committee at the next meeting.

SB 140 m

Probate Code

State Aid to Local Govt's

HB-157 - State Aid to Local Governments. This is Rep. Degnan's area concept. He was here to discuss it with the committee. He presented some prepared information--a fiscal note. This provides for an amendment to the Revenue Sharing Act to include area differentials. Mr. Degnan said that the cost of doing business is different from one area or district to another. All this does is bring it into line according to state studies on differentials-applies to every district based on the 1965 reapportionment plan. These differentials are now recognized in the state salary schedule. Tillion agreed with this and said that Petersburg was cheaper to live in than Juneau. Rep. Degnan gave percentage comparisons.

HB 157

Chance said this was a subject that Senator Stevens said was causing him so many problems back in Washington, D. C. He objected to the per capita basis for revenue sharing. Degnan said that he had started on this project whenhe first came to the House. He felt there were problems in funding and also in treatment of Alaskans as a whole. He has talked to both Stevens and Gravel about this. They said Alaska has been treated very unfair on revenue sharing because of not having something like this in the law. Malone said the obvious argument against this would be that it would cost them more money. The other side of this is that the state does recognize the differential in the adjustments on salary. This is also recognized in the state foundation program for school operation costs. They also take all of this into account for construction. So there is justification for this bill. Also there is precedence for using this method. Degnan said it would give the senators something to work with on the national level. Orsini said this was true of federal, too, since they recognize a differential--Corps of Engineers. Tillion said this would mean a cut in the Anchorage and Fairbanks area. Malone figures this would probably be nearly $275,000 less to the City of Anchorage. Chance said if it was funded 100% it would take an additional 1/2 million dollars. (McVeigh left at 4:45 p.m.) Malone mentioned that federal monies under HR-1 were going to be distributed nationally without taking into account the cost of living differentials. This is being done under the one-man one-dollar type of distribution. Alaska gets the smallest amount. This might be some influence on that problem. Chance moved and asked unanimous consent to report this bill out of committee. It was discussed further, particularly with regard to cost of living study and who would perform this. Malone will work on the draft for the next meeting. Chance withdrew her motion.

Chance moved to adjourn at 4:55 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 15, 1973

Chairman Tillion called the meeting to order at 3:50 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Chance, Malone, Banfield, and Kaden.

Licensing Opticians

HB-33 - Licensing of Opticians. Banfield asked if Dr. Box had been notified of this hearing. Tillion said we would not be taking final action on this today and that Dr. Box would be notified and given an opportunity to testify. HB 33

Bomb Threats

The chairman gave committee members the CS for HB-290 - False Bomb Threats - to check over. This was agreeable to all and it will go in this way. It was signed out at the previous meeting. CSHB 290

Licensing Opticians

The chairman invited Dr. Fritz to testify on his bill but he deferred to Dr. Banholzer, Dr. Page, and Mr. Evans. Mr. Banholzer, Juneau Ophthalmologist, testified in favor of this bill. He said this bill was patterned closely after the State of Washington's bill. Those in the eye care field feel this is the best law being used in all the states. The purpose of licensing these people is similar to licensing other professional people. This is to make sure that those practicing in the field are qualified and doing good work. There is a provision for those already in the field--a grandfather's clause. You can enter this field by study and testing. There is also an apprenticeship and testing program. These are the three methods of receiving a license as an optician. He said that the main objections he had heard about this bill was the grandfather provision. He said he felt somewhat similar but everybody from now on is going to be licensed. Opticians can under the auspices or direction of an optometrist fit contact lenses. The main objection seems to lie in this aspect of the bill. As it is now, in almost every state, anyone dispensing lenses have them ground by an optician or someone working for an optician. Dr. Banholzer said that the way people now are trained in opticianry they have a rather lengthy training period in the fitting of contact lenses. He could see no reason that when working under the direction of an ophthalmologist they can't do just as good a job as in any other state. He has no objection to this bill. HB 33

Tillion said he was sorry that the optometrists had not been notified since they were in opposition to the bill. Some of them feel this is pretty well covered under federal law. They don't think there is any evidence of injury to the public now. Therefore, there is no need to restrict people from doing this. What is happening now that requires this bill?

Dr. Banholzer said he didn't know what was happening in the state. There may be people who do not dispense the correct lenses. Very seldom would physical harm come to someone that was fitted with the wrong glasses. (McVeigh arrived 4:00)

HB 33

Licensing Opticians

Banfield asked what type of training a person had to have before becoming an optician. Dr. Banholzer said they just had to hang out their shingle and go into business. Banfield asked what would be required of someone under this bill. Would all they have to do is work as an apprentice in somebody's office? Banholzer said this was correct or they could take a formal training program. For apprenticeship you take 6,000 hours of training. There are no such programs in Alaska but they have them in the lower 48 and Seattle is the closest. Mr. Evans just completed 6,000 hours there. This training covers many facets. Banfield questioned the grandfather clause because these people could train apprentices and then you would have more opticians that did not have the proper training. Then, again, an optician can take in a couple people for apprentices and they can immediately begin serving the public without any training or knowledge. Page noted that they would still have to have an examination. Dr. Banholzer said the people who are administering the examination would find out their knowledge. Banfield said she meant when he began his apprenticeship he would be serving the public and at that time he would not be required to take the test. The test would be taken after the three-year training period. Banholzer said this was the same as interns in a hospital.

Chance asked about (12) on Page 6. What type of advertising is referred to. Fritz said he would give her an example. He said there was an optician in Anchorage advertising 20% off on sumglasses. This is really phony advertising. Tillion feels this is already covered in our statutes. Chance then asked what was meant by a "group contract". Fritz said it could be say a group of elderly Finnish people who come in off the street and make an agreement with an optician to grind their lenses. Chance asked if this would include group medical programs. Fritz said they could do this because the prescription would be sent to the optician from a proper doctor. Chance asked about the board being able to revoke a license because of the things listed. This is on Page 5. McVeigh noted that this would have to be done under APA. This would have to go before the hearing officer and this is repealable. This can then go to the circuit court. Banfield said that because of the grandfather clause they cannot go back beyond that period of time.

Chance then asked if you had to have a license to sell hearing aids. She felt there must be some opticians who sell these, too. If they did, then under this bill they would not qualify for a license because they would be practicing another healing art. Fritz didn't think this would be the case because hearing aids are also prescribed. It should not be considered a different healing art. McVeigh noted that with the new modern hearing aids, they are many times installed into glass frames. Fritz said that if it was construed to prohibit the selling of hearing aids, then there would have to be some changes made in this proposed law.

HB 33

Licensing Opticians

McVeigh suggested that we amend (14) to cover the problem of hearing aids and glasses. Perhaps it could be amended to say "any other of the healing arts not related to fabrication or fitting of lenses or contact lenses." Malone felt that this bill meant what it said---that it would prevent people from engaging in other segments of the healing arts. Page said this clause was derived from many areas where a person sets himself up as an herbologist, chiropractor, and an optician. This is to eliminate such types of paramedical types of treatment.

Banfield asked if opticians would be allowed to fit contact lenses. Banholzer said they would because the Dr. sent the prescription and the optician just puts them in for the person. He said you would get a lot of patients that wouldn't come back no matter who did the fitting. Banfield said she was concerned about this and felt that those doing the fitting should really know a lot about what they were doing because you only have one set of eyes. Banholzer said he didn't feel that an optician couldn't do this because he was getting the prescription from the doctor. Tillion noted that the optometrists seem to be quite opposed to this legislation.

Chance asked how this would affect a village health aide or a physician's assistant. Sometimes these people go out in the bush. She wanted to know how someone out in the villages could be helped with their contact lenses if the aide could not do this. Fritz said they wouldn't be able to do it.

Tillion said that another objection was the apprenticeship program. Those with no training under the grandfather right can get a license and then they can train apprentices.

Page said that this bill would not allow promiscuous stamping out of contact lenses to the public. They cannot be made without a proper prescription. All of these are made by opticians but the prescribing doctor puts them on the patient. This way there is a control. Banfield asked Mr. Evans if he did this type of work. He said that in Seattle he worked under three ophthalmologists who had him do this for them. He said that if the examination was set up as in Washington that 50% of the examination related to contact lenses. Unless you are very knowledgeable you cannot pass the exam.

Dr. Page, Juneau ophthalmologist, testified in favor of this bill. He said MD's were the only ones who could take care of a patient after damage had been done to the eye. Opticians can't prescribe and treat eye problems. The patient should go back to the one who wrote the prescription. He said they were trying to get some kind of control in their own ranks. Giving educational requirements and some rules would help a great deal. (Beirne and Orsini arrived at 4:35 p.m.)

Tillion said he was only concerned about the hearing aid and eye glass problem. HB 33

Licensing Opticians

Banfield asked if we could look into this situation and see if we could accept six months' experience from a school in order for them to fit contact lenses. (Banfield left at 4:40 p.m.)

Dr. Fritz was the next to testify in favor of his bill. He said that he wanted it made clear that he had no connection with optician, hearing aid company, etc. He said he was fully experienced in the field of eye care. He said an oculist and an ophthalmologist are the same thing. They send their prescriptions to the optician or optometrist to be filled. An optician is one who fits frames, constructs contact lenses according to prescription, handles broken lenses, etc. Legally there is no reason why opticians cannot continue what they are doing now. Therefore, this is a way in which to upgrade what they are already doing. He gave an example of an improper fit. He said he had attended a symposium on soft contact lenses. One person in that course was a sporting goods salesman. He went back to Anchorage and began fitting contact lenses. Two days later Dr. Fritz got in on the case because problems developed and he had to try and give the girl some relief from the pain. He said it was necessary to learn about the physiology and anatomy of the eye before handling contact lenses. Further testimony will be taken on Wednesday, March 21, 1973.

State Aid to Local Govt's

The chairman said that the CS for HB-157 - State Aid to Local Governments - has been prepared. Tillion said what the CS does is basically add in on Line 15 the area cost of living differential. This will be determined by election district. It substitutes that language for the original breakdown by percentages as shown. The spread between districts over the Anchorage base is subject to reduction as communications and other things become available in other parts of the state. This is based on the survey as determined annually under the law. Orsini asked if this was the state salary survey. Malone said it came from the Department of Personnel. They are required to produce this study annually. The legislature would not have to change this as needed, this will be done automatically as the survey shows. Orsini said he thought they were going to have the University of Alaska do this survey. Beirne asked if there had been a fiscal study as to how much more or less it would be. She was given a copy of the fiscal note. Tillion said it would be 1/2 million more. Chance said Ted Stevens said in the joint session that he needed this type of legislation. This will help them to get area differentials on the national level. Chance moved the CS for HB 157 out of committee. It was signed out "Do Pass" by Chance, Malone, and Beirne. McVeigh and Orsini signed "No recommendation". HB 157

McVeigh moved to adjourn at 5:03 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, March 21, 1973

Chairman Tillion called the meeting to order at 3:35 p.m. in Room 104 of the Assembly Apartments. Present were Tillion and Kaden. Other members were in session on the budget.

Licensing Opticians

HB 33

Mr. Tillion called this meeting in order to hear testimony on House Bill No. 33 - Optician Licensing. Present were Dr. Box, Juneau Optometrist; Dr. Banholzer, Juneau Ophthalmologist; Mr. Phil Lampert, Anchorage Optician; Mr. Russ Milligan, Anchorage Optician; Mr. Richard Kleinkopf, Fairbanks Optician. Mr. Tillion said the most beneficial way to consider this bill was to have an interchange in those testifying. Dr. Box is the only one present that is opposing the bill. The others were in favor of this legislation.

Dr. Box had a prepared statement in opposition to the bill. He said it was unacceptable to allow anyone except an optometrist, ophthalmologist, or oculist to fit contact lenses. Opticians do not have to show proof of proficiency because of this legislation. He said that in earlier testimony the opticians indicated that this is a mechanical act; and it is not a mechanical process. It requires professional skill and judgment. This is a type of skill you do not learn from being an apprentice. This takes academic training to acquire the type of skill and judgment needed. He said that seminars put on by contact lens companies is not the answer to learning how to fit lenses properly. Most of these are held to sell more of their product. Dr. Box said that in order to gain proficiency in the use of the necessary tools used to fit contact lenses you have to have had some training under the supervision of someone in the use of that instrument. You can't learn this in a one- or two-day seminar. You have to learn how this relates to visual function.

Mr. Kleinkopf objected to his line of reasoning because the bill says the optician will fit contact lenses in conjunction with an eye physician or an optometrist. Dr. Box said the bill didn't read this way. Mr. Kleinkopf noted this is a proposed amendment. He said that in his office in Fairbanks the contacts are made in his office but the patient has paid for three return calls with the doctor. This cost is included in the charge for the contact lenses. This is to make sure there is no problem for the patient. Not everyone makes the return visits. Box said there would be no problem if the optician and the doctor worked in the same office. In that case you don't need a license because the doctor's license would cover both.

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Licensing Opticians

Mr. Milligan said they wanted the ophthalmologist to be responsible to the public that was why they said in the bill that he would supervise those doing the fitting. That is because not all doctors want to do the fitting themselves. Banholzer said that a doctor may not have enough contact lens business to warrant having an optician in his office doing this work so it is more convenient to send the work out to a qualified optician. That is the reason for having them licensed. Anyone can do it now, so felt there was need for some kind of qualifications, etc., for licensing. Dr. Box said that was why he was opposed to this bill. The ones doing this business now will be licensed whether or not they are qualified. Banholzer said there were no standards now anywhere. Box said there was for ophthalmologists and optometrists under the Board of examiners. They had to pass tests in this field.

Mr. Tillion was called over to the House to vote on the budget. Hayden was left in charge of the discussion.

Dr. Box said that there was a portion in the opticianry law that says opticians cannot do this work. The AG's office won't prosecute. Optometrists can do this type of work. Mr. Lampert said that excluded ophthalmologists then. Dr. Box said that state law does not supersede the law on ophthalmologists or physicians so they would be included. The opticians from Anchorage said that none of the eye doctors there or in Fairbanks either fit their own contact lenses. Dr. Banholzer said he did his own fitting and that most of those from the University of Oregon also did. Mr. Milligan felt this would develop a monopoly if only optometrists were allowed to fit contact lenses.

Mr. Lampert presented his amendment. This was discussed at length. There was some discussion about the apprenticeship program. Also the provision that a person could have 10,000 hours of work in opticianry and he would be eligible to take the test. This is to cover those that are working in states that do not license opticians. There are more states that do not license them than do.

Dr. Box felt there was need for clarification on what "good standing" meant. Hayden said the board could define what this meant to them. They are limited by standards of reasonableness. You cannot set up too much specificity because it is too limiting. Mr. Lampert asked Dr. Box if his main objection was with respect to contact lens. Dr. Box said this was true. Mr. Lampert felt there should be no problem with this because the amendment says the patient will be fully protected. The optician has to be working under the ophthalmologist or optometrist. Mr. Milligan said that this bill is drawn up parallel to Washington State's and it has been working well. Dr. Box asked for time to consult

Licensing Optic.

with his membership about the proposed paragraph (3) on the 10,000 hours. He will convey their desire on this to the committee. HB 33

Meeting adjourned at 4:30 p.m.

Tillion reconvened the meeting at 4:50 p.m. in the Assembly Apartments. Present were Malone, Orsini, McVeigh, Tillion, and Kaden.

Probate Code

Tillion asked for a motion to move the probate code out of committee SB 140am. Orsini so moved. McVeigh said that he had talked to the judges and this met their objections. This bill was signed out. A House Committee Substitute was put out for SB 140. Tillion, Orsini, Malone, and McVeigh signed "Do Pass"; Beirne signed "No rec". McVeigh will carry this bill on the Floor. SB 140 am

Licensing Opticians

McVeigh asked about HB-33 - Optician Licensing. Tillion said we were going to prepare a CS to cover the amendments discussed earlier today. HB 33

Narcotics Enforce. Unit

SB-108 - Narcotics Enforcement Unit. This bill establishes a narcotics and dangerous drugs enforcement unit. We want to amend this as our bill which said it was a Division of Narcotic Drugs Enforcement. We will make it identical. The chairman asked for a motion to sign this bill out. There was no objection. It was signed out "Do Pass" unanimously. SB 108

Mutual Sav. Banks

SB-191 - Mutual Savings Banks/Investing in mortgages. Now they can loan up to 90 per cent of the assessed value. This allows 95 per cent. Instead of having to have 10 per cent down this would allow 5 per cent down. There will be more houses built this way. There was a motion to put this bill out and it was signed out. (Beirne arrived at 5:00 p.m.) Tillion, Malone, and Beirne signed "Do Pass"; Orsini signed "No rec". SB 191

Malone moved to adjourn at 5:02 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 22, 1973

Chairman Tillion called the meeting to order at 3:50 p.m. in Room 104 of the Assembly Apartments. Present were McVeigh, Tillion, Malone, Beirne, and Kaden.

Evacuation Little Diomede

HJR-51 - Emergency evacuation/Little Diomede. This is to help those in difficult circumstances in this isolated area. McVeigh moved this resolution out with a "Do Pass" recommendation. It was signed unanimously "Do Pass". HJR 51

Licensing Opticians

Tillion said that he had talked with Mr. Lampert on HB-33 Optician Licensing. He said they fill prescriptions for the eye physician or the ophthalmologist. They have been doing this for 25 years under his supervision. McVeigh felt if we passed this bill we would be putting them into business. Mr. Lampert said that if you didn't regulate opticians--gave an example. The optometrists get a bad name. He said he felt he was the only licensed optician in the state. He is a member of the Contact Lens Association. You have to pass the qualification by federal standards. Beirne said if there is such an organization reference should have been made to same in the bill. If you have a national organization you have something to tie standards to. Tillion told Beirne that we had already put out a CS. Mr. Lampert said there was also a Masters Opticianry License. He didn't qualify because you have to have been in the business for 12 years. Beirne asked to have the changes outlined by Kaden. He read the changes. The grandfather clause provides that a person practicing for six months preceding the effective date of this chapter may get his license by paying the $50 fee. HB 33

McVeigh said he felt the problem was on Page 2, Line 24. "A license shall be issued for (1) the dispensing of contact lenses". Haden said he added that so that it would show on the license. McVeigh asked where it said they had to go back to the ophthalmologist. Why does it say "may". Why not "shall"? The committee agreed to this change. McVeigh moved this bill out with that one change and asked a "Do Pass" recommendation. It was signed out with individual recommendations. It was sent back without recommendation. Beirne felt the opticians should look into the national organization.

Mandatory Sentencing

CSHB 105 - Mandatory sentences/felonies. This was drafted by someone in Judge Moody's office and Hayden redrafted it. Tillion asked for a motion to put out the CS. There was no objection. Tillion signed "Do Pass"; Orsini signed "no rec"; Malone, Beirne, McVeigh and Banfield signed "Do Not Pass". CSHB 105

Ombud.

HB-15 - Ombudsman. Tillion asked if the committee wanted to put this bill out. McVeigh moved to hold this bill in committee. Motion passed. This bill will be held. F 15

HR 2

Reapportionment for House

HR-2 - Reapportionment of the State House of Representatives. Tillion said that if this can be passed on the Floor of the House then it would be the will of the House. It is not necessarily satisfactory to members of the committee. Beirne felt this would mean that representatives would run at large again. Tillion said he would like to see the committee strike everything after "districts". Malone so moved. Beirne objected. She said she thought this would mean an area of similar economic, etc. McVeigh felt this could be all over Anchorage. Malone said that was why he had made his motion. McVeigh thinks it should be a big area. He said he had very rich, conservative, really poor, and reactionary types in his district. Tillion asked if they just wanted to put the resolution out as it is since it is better that what we have now. Tillion said that running overall makes more sense. The one that wins 51 per cent in the general, you just get certified. Malone removed his motion. Tillion asked for a motion to put this out. There was no objection. Beirne and McVeigh reported it back without recommendation. Tillion and Malone signed "Do pass if amended".

McVeigh moved to adjourn at 4:30 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, March 23, 1973

Chairman Tillion called the meeting to order at 4:00 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Tillion, Banfield, Chance, and Kaden.

Pay Raise Magistrates

HB-365 - Pay raise for magistrates - was the first item of discussion. Tillion said this was an appropriation for $59,724 to cover pay increases that these people were to have received in line with the statutes, but the court system did not give it to them. Malone said there was no pay scale or classification plan but that they were working on this and it should be prepared by next session. Now they are paid at different levels and he realized that there were inequities in this system. HCR-51 urges the court system to complete their pay plan. Malone had checked with the AG's office and had received an opinion from them that indicated the salary increase should be the same as increases for state employees. He read from the AG's opinion. Malone said the AG told him there would be a financial problem if the Supreme Court was told to pay this and there wasn't enough money for it. That is why this bill was put in for consideration. He said he felt that it was the intent of the past legislatures that the magistrates be granted these pay increases. Malone said he wouldn't recommend this increase if he didn't know that the court system was preparing a pay scale and classification plan because there are so many inequities in the present system. Orsini asked what type of cases a magistrate would handle. Tillion said they handled fish and game violations, disturbing the peace, settle family fights, perform marriages, and hold arraignments. Malone said they didn't handle felonies. Chance moved the bill out of committee. Orsini objected. He asked to write a letter of intent to go in with the bill. The committee was agreeable to this suggestion and Malone and Orsini prepared a committee report to be submitted with the bill showing legislative intent. Orsini said the purpose of the committee report was to show that this pay raise is strictly an interim measure and we want some sort of equitable pay rate schedule to be submitted. Orsini removed his objection and the bill was signed out "Do Pass" unanimously. HB 365

Corp./Native Claims Act

HB-383 - Corporations/Native Claims Settlement Act. There were some problems with the terminology and this was in reality a revisor's bill. The problem developed because the federal act prevails over the state claims act. This might cut out some corporations which are entitled to certain benefits under both acts. This bill says that anything in this section or elsewhere cannot deprive a corporation organized under this act of its benefits. Chance moved this bill out with a "Do Pass" recommendation. There was an objection by Orsini, but he said he would sign "No rec". All others signed it "Do Pass". HB 383

Revisor's

HB-382 - Revisor's Bill. Banfield asked to hold this over until the committee had copies of this bill. Request was granted. HB 382

Utilization of Herring

HCR-75 - Complete Utilization of Herring. Tillion explained how they got the eggs from herring in the past and that now they have a fillet machine. With this new machine they will be able to save this herring instead of just dumping it into the water. Tillion asked for a motion to put this resolution out. There was no objection and it was signed out unanimously "Do Pass". HCR 75

Waste of food animals

HB-242- Waste of food animals. This bill explains what parts of wild game may be left in the field. Banfield moved to put this bill out with a "Do Pass". Chance questioned the word "innards" and felt is should be "entrails". Hayden checked the dictionary and found both words acceptable. The bill was signed out unanimously "Do Pass". HB 242

Monte Carlo Nights

CSHB-124 - Monte Carlo nights. Banfield moved and asked unanimous consent that this bill not be brought up. Tillion objected. Banfield moved and asked to have this bill tabled. Malone, Orsini and Banfield voted for the tabling motion. Tillion and Chance voted against it. Motion carried. This bill is tabled. CSHB 124

Income Tax/ Senior Cit.

SB-47am - Income Tax/Senior citizens. Banfield said that the state has to take up the loss to the local entity when an exemption is granted to a senior citizen. The people file their income tax return with the borough and then it is determined whether or not they are eligible. She gave a local example. Tillion felt all senior citizens should be included no matter what their income. Chance said we should remember that it is only for those who apply. Orsini said there should be no problem with the state coming up with income amounts instantly with the new computers they now have. Orsini asked if this was an amendment to the basic statute. The basic statute says they are exempt for $250 for property tax if they apply. Malone didn't like to include their income. He thinks they should all be eligible and gave the Kenai Borough as an example. He said most people who had an adequate income went ahead and paid their taxes. Banfield said she had tried to get this thing worked out to be more agreeable. Tillion instructed Hayden to prepare a CS for this SB 47 to delete reference to income. Hayden asked what effective date should be put in. Tillion said it would take effect as other bills--90 days after the Governor's signature. The Committee agreed with this. SB 47 am

Approp. for Narcotics Division

SB-107am - Appropriation for Division of Narcotic Drugs. We passed the other bill out already. Banfield moved this bill out and asked Hayden to prepare a CS to make it the same as our CS on SB-108. This bill was signed out "Do Pass" by all present. SB 107 am

Pari-Mutuel Betting

CSHB-23 - Pari-mutuel betting. This was for horse racing and sled dog racing only during fairs. Malone moved this bill out without recommendation. All agreed to sending the bill out except for Orsini who had "No recommendation". CSHB 23

Meeting adjourned at 5:05 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, March 27, 1973

Chairman Tillion called the meeting to order at 3:43 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, Orsini, Malone, McVeigh, Kaden and Art Peterson.

Eminent Domain

McVeigh asked if the committee could take up HB-381 - Eminent Domain- which allowed the taking of or obtaining land for buildings. HB 381

Revisor's Bill

Tillion said that Mr. Peterson was here to discuss the revisor's bill - HB 382. This was the first item of consideration. Mr. Peterson went through the revisor's bill item by item. Tillion asked if there were any substantive changes. He said he didn't think there were. (Chance arrived at 3:46 p.m.) The only item the committee did not agree to was Section 28, which they deleted and had a CS prepared to cover this. (Beirne arrived at 3:50 p.m.) HB 382

Section 28 changes the voting durational residence requirement and specifies a 30-day period in line with the Alaska Supreme Court decision in the Van Dort case last November 3. McVeigh questioned this. Mr. Peterson said that the 75-day requirement was invalid by this decision. Near the end of their ruling the court refers to the maximum of 30-day period. They said this was all that was permissible. It relates to our registration requirements and how long it takes to do that. Tillion asked about the federal case. Art said that the 50-day residence requirements were upheld because of the complicating factors which justify exceeding the 30 days. The court did not overrule or say they were wrong. He said there were two factors here: We use a volunteer registration system and ( ) because of the mistakes that might be made they needed time to correct them. The second thing was that in Alaska there was a fall primary and because of this the registrar and the officials have to interrupt the process of registration in order to handle the fall primary. Malone felt we could argue for more than 30 days. Tillion felt that Nevada would probably set an even greater spread of time. Art made reference to the Burns vs. Fortson case where the United States Supreme Court said a 50-day registration approaches the outer constitutional limit. He said if Nevada got more than that they would have to argue and put up a good case before it would go through. McVeigh asked if he understood the ruling properly. What they allow is a limitation to permit administrative procedures of the state to register voters be carried out. It would then be left up to the states depending upon their system for registration. McVeigh said that Alaska registration could be considered fairly efficient so you could argue that

Revisor's Bill

30 days would be the outer limit. Tillion felt we should leave the statute as is. Banfield moved to delete section 28 and have a revisor's statute next year to cover what other decisions come out this year. Malone said that residency was determined more by intent than anything else. He didn't feel that 30 days was long enough to show intent of making this your residence. Question was called on the motion and motion carried. Section 28 was deleted. HB 382

Section 40. Art said this repeals a statute providing for the postponement of court proceedings--decided March 5 of this year. McVeigh asked for a copy of that opinion. Art said that in the opinion they referred to some other thing that provided a 2/3 vote to change the court rules. He said we need two things: 2/3 vote and the express intent to change the court rules. McVeigh said the court has in effect overruled the legislature on this point. Hayden was requested to prepare a bill to cover this point. Tillion felt that we should repeal Court Rule 40 but Banfield and McVeigh objected. They felt this rule covered more than the problem we were discussing. Hayden will draft a bill.

Tillion said that a Judiciary CS would be prepared for HB-382 and recommended that the CS "Do Pass". The bill was signed out unanimously "Do Pass".

Relating to Adoption

HB-70 - Relating to adoption - was the next subject for discussion. Chance said that Doug Gregg, with the Juneau Bar Association, had worked with the committee of Kay Smith that drafted this bill. She asked if the committee would like to have him here to answer their questions. Chance proceeded to give the history of this bill and stated that as of now, there is no child adoption statute. Mrs. Smith said there was some objection as to how the evaluations will be done. Other than that, she did not think there was any objection to this bill. Malone noted that the court would be able to appoint whomever they choose to make the evaluation. Mrs. Smith said this was based on the model adoption code. This had received the approval of the American Bar Association. Banfield asked about minors adopting children. It was explained that this was to cover adoption of native children in their own villages. Sometimes they have sisters or brothers who can take them in rather than sending them to foster homes. Chance said this would have to be done after a court appointed evaluation. The children need the protection and benefits of being adopted. Mrs. Smith said that Alaska Legal Services has been working hard to inform people about the benefits that come to them from legal adoption. HB 70

Chance said that when she asked these people to adopt the proposed uniform adoption code they formed a subcommittee. At the same time, she was checking through the federal arrangements to see if this would interrupt benefits such as social security benefits. The people she talked to endorsed this and think we should have legalized adoption.

Relating to Adoption

HB 70

Mrs. Smith said that the native children through the adoption procedure would not lose their benefits under the native land claims act. McVeigh said he had a case right now that a law such as this would be good. There is a mother and father that are divorced, father dies, child goes to the parents of the deceased father, mother disappears, - present law says that he has to find the mother, but this law would allow the father's parents to adopt his children. McVeigh moves this bill out "Do Pass". Banfield objects in order to consider the contents of this bill more closely. Mrs. Smith said the Dr. McKay came in when discussing this proposed legislation to answer questions with regard to subsidizing the adoptions in some cases. This is a form of adoption assistance where if the help was not given the child would have no home and the people themselves really want to keep the child but because of the rise in cost of living or other emergency in their immediate family they cannot afford to keep the child. This relates to persons in the permanent custody of social services only. This will, in the longrun be less expensive to the state than providing institutional care. At this time this probably only refers to about 15 or 20 children in the state. Tillion felt that you would be attracting people to this adoption program who really only wanted the additional money. Mrs. Smith read from her position paper--giving an example. The subsidy is very limited. Malone said this is a far preferable treatment of the child than putting them into an institution. Banfield said she objected to the department setting up regulations for this program since she is an adoptive parent and knowswhat she had to go through. Action was taken on the motion by McVeigh. Tillion, Malone, Chance, and McVeigh signed "Do Pass" Orsini signed "No rec".

Eye Glasses

HB 161

HB-161 - Eye glasses. Malone asked if the tests required in this bill were done in the State of Alaska or in the offices of the opticians. (Banfield left at 4:45 p.m.) Tillion said this was federal law and is a standard test. He said that all optical shops had the where withal to perform these tests. Mr. Magnusson said that this repeals current statutes which are no longer necessary with the adoption of this bill. Malone moves this bill out "Do Pass" and asks unanimous consent. Everyone signed "Do Pass".

Ownership Property/ Nonresidents

HB 335

HB-335 - Ownership of real property/aliens. McVeigh felt that an alien could own an Alaska corporation and get around this. Tillion said there had to be at least 50 per cent of the owners of an Alaska corporation who have to be Alaskans. Chance said this was on Page 2, Line 7. There was some discussion as to whether this would violate any of the laws on interstate commerce. Orsini asked what federal statutes covered this problem. Hayden said there were a number of cases dealing with the Japanese and similar statutes were tried. Some states have these types of provisions--just as long as they don't discriminate against the kind of alien. Some state courts and lower federal courts have upheld the validity of this type of legislation.

HB 335

Ownership Property/ Nonresidents

The United States Supreme Court has not ruled on this point particularly. This is drawn different from the U.S. equal protection laws. This extends the privilege of immunity to citizens. Tillion didn't think this was a violation. Hayden felt that it was a close question. Other states have laws that are similar. Malone said that this limited corporations just as to nonresident aliens. Those that engage in mineral or other resources of the state are exempt from this section of this chapter. Tillion said that was to cover British Petroleum. Malone objected because natural resources covers land. McVeigh felt this was a restraint on alienation of real property. In common law you can't do that. In the past we started out with all of these landed aristocracies. We broke all that up under English law. This country carried this over into common law. You cannot restrict real property. Malone said he would like his question answered relative to lands being considered natural resources. He asked what would be done with those aliens who presently own land, what about them? This is on Page 1, Line 13. Does this divest them of their property? Tillion said you could give them a reasonable amount of time to dispose of their property. Malone then wanted to know if the state would then be in a position to condemn their property and have to make restitution. Tillion asked what states have laws similar to this. Hayden said he thought Nebraska had one. He said that one of the people in his office had researched this and wanted to know if they wanted him to come over and answer questions for the committee.

Orsini asked what would be the case of some of these people had interests around the state. Hayden said he thought this was intended to except them. There seems to be some problem with this, though. Randy Berry drafted this.

Malone had a question on Page 1, Lines 17 and 18. Here it says that interests in real property conveyed in violation of this section shall revert to the state. That seems to mean confiscatory powers. Why to the state and not the last owner who is a citizen or resident of the state? Chance asked if this meant that people working for Japanese Timber or British Petroleum couldn't buy homes in Anchorage. She meant Japanese and British people who were not citizens of the United States. Tillion said we would check further into this legislation.

Licensing Group Homes

HB 128

HB-128 - Licensing of Group Homes. Hayden said this provides homes for 10 or less children in a group situation with family style living. Tillion said that this would allow a larger number of children in a home without it having to be run as an institution. Chance said that a lot of young people when they reach the teenage years are unable to be placed in foster homes. Homes are usually not available for this age and many times the teenager cannot adjust to living in a foster home on a one to one basis. They can relate where 10 or less can live together with their peers.

HB 128

Licensing Group Homes

Malone said he had one problem with this bill and that was the definition of "group home". He had talked with the Commissioner and he didn't get a clear answer of what a group home would be. Chance said that you have institutions and foster homes with nothing in between. This would serve a need. Chance said that she asked Welfare if they could license group homes and they said they could do it by regulation. They have done this but the AG informed them this year that they couldn't do this by regulation. They said it had to be recognized by statute and that is the reason for this bill.

Malone commented on (5) on Page 1. This provides that the department can delegate the evaluation and licensing to the boroughs. This is one of the key features of this bill and this is at the discretion of the department. Chance moved to pass this bill out of committee. Orsini objected. Orsini felt that you might have some liberal-minded individuals within the department who might license a home having one adult and the rest being 16 year olds. Malone agreed that the foster home concept had been abused. It is not always the fault of the department. Chance said that a group home could have up to 10 but that if a number were handicapped that 6 would be all you could handle. Chance said we have group homes for adults that are mentally retarded. They have been taught skills and live together with house parents. There are group homes for smaller children that are coming into the treatment center throughout the state. Some of these children are blind. Chance repeated her motion to move this bill out of committee. Malone, Chance, and McVeigh voted "Do Pass"; Tillion and Orsini voted "No rec".

HB 285

Definition Legal Death

HB-285 - Definition of Medical and Legal Death. Malone requested testimony from different religious viewpoints before taking this bill to the floor. Chance said there was a position taken by the Catholic Church recently relating to this subject. They approved this since this is not euthanasia. Page 1, Lines 12 and 13 says "based on ordinary standards of medical practice". How would you decide what that was. Besides medical practices change as time goes on. Also, how do you determine "spontaneous brain function"? Chance said that the purpose was so they could use parts of the body for transplants. Under existing law they have to stop the machine that pumps blood through the body before they can declare you dead and now they have to be able to remove body organs before the blood is stopped. McVeigh suggested that we study this further.

HB 319

Driving WI

HB-319 - Driving while under the influence. This says you have to have red license plates if you are caught driving while under the influence. You don't have to use these plates more than one year. Tillion said he would accept a motion to put this bill out. Malone moved the bill out with individual recommendations. Tillion signed "Do Pass";

Malone, Orsini, and Chance signed "No rec"; and McVeigh signed "Do Not Pass".

Income Tax/ Senior Citizens

SB-47am - Senior Citizens' property tax exemption. Hayden has prepared the CS which deletes the reference to income entirely. Malone moved it out "Do Pass". It was signed out with,HCS for SB 47, a unanimous "Do Pass". SB 47 am

Compensation Commission/ Judicial Officers

HB 375 - Compensation of Judicial Officers. Orsini said this sets up a judicial compensation commission similar to that set up in federal government. Chance felt they would amend this on the floor to include the legislature. Chance said the commission reviews the pay and makes recommendations. Then if the legislature doesn't disapprove their recommendations, it takes effect within 30 days from that time. HB 375

Chance moved to adjourn at 5:35 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 29, 1973

Meeting was called to order at 4:00 p.m. in Room 104 of the Assembly Apartment by Chairman Tillion. Present were Banfield, Tillion, Orsini, Beirne, McVeigh and Kaden.

Criminal Justice Information Systems

The committee listened to a presentation by Carolyn Burg relative to the criminal justice information system. She said she objected to persons not having criminal records being placed in the information system. This information is being gathered statewide, interstate, and nationally. She said she was alleging that this was unconstitutional because tax dollars were being spent for computers and large staffs, nationwide, to monitor lawful citizens, which is a contravention of the Constitution of the United States.

She also said that she felt that all wiretapping was unconstitutional. McVeigh said something like this has to be declared unconstitutional through the courts. Until that time it is still considered constitutional.

Mrs. Burg made mention that the people of Alaska last year voted by approximately 80 percent of our populace to amend the Alaska State Constitution so they could be left alone. Although it might not be constitutional, but it shows the intent of the people. In her research she discovered that it appears the citizens of Alaska in order to be citizens of the United States, have to resort to being citizens of Oregon before they can claim a Fourth Amendment right under the Constitution of the United States.

Mrs. Burg showed that the information system was very discriminatory since it lists fishermen but not nonfishermen, hunters but not nonhunters, cardrivers but not noncar drivers, etc. She felt that some type of investigation should be made into the collecting of information in our state. The chairman explained that the committee could only investigate in certain areas and if we have a bill on this subject then we can investigate further. Otherwise the committee is limited in its investigatory powers. She said the right of privacy to a person is a precious right. She wants to see this maintained in this state. She presented a copy of her presentation to all committee members. She thanked the committee for hearing her views.

Mrs. Burg also made another point showing a list of names of people who objected to their names being in the AJIS. She said that a policeman could not search anyone he wanted on the street, they had to be unlawful in some manner. This system does not require that you be unlawful. It puts everyone in the system. Banfield said we picked our jurors out of computers and needed the names to be made available.

Crim. Jus. Inf. System

Mr. Tillion said the only thing we can do now is to be made aware of the situation and if some legislation does come to this committee further action could be taken. Mrs. Banfield noted that it was obvious that Mrs. Burg had put a lot of hard work on this subject. Tillion said we would put this information in our files and when bills are referred to us on this subject we can work from that point.

VD Month

HCR 79

Representative Beirne requested that Mr. Sedgewick be allowed to testify on a resolution in this committee. This was HCR-79 Venereal Disease Awareness Month. Mr. Sedgewick represents the State Pharmaceutical Association. He said he was in favor of this resolution because it seems that everyone sticks their head in the sand when it comes to venereal disease. He said his organization could not get this information disseminated among the public without such a resolution. Mr. Sedgewick said there is a National VD Awareness Month and they are coordinating their activities to correspond with national efforts to get VD information to the people. Tillion asked if there would be clinics set up for detection of VD. Mr. Sedgewick said that this was strictly an information program and that detection centers were already operating throughout the state. Banfield moves this resolution out of committee with a "Do Pass" recommendation. Orsini objected until he could read the resolution. Orsini removed his objection and the resolution was signed out "Do Pass" except for Tillion who signed "No rec".

Eminent Domain

CSHB 381

The committee asked Hayden to draft a CS for HB 381 - Eminent Domain - and to make this apply to home rule cities with population over 50,000.

Meeting adjourned at 4:25 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, April 2, 1973

Chairman Tillion called the meeting to order at 4:05 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Tillion, Orsini, Malone, Beirne, and Kaden.

Boundary Change/ District Court

HB-232 - Relating to district of the superior courts. HB 232
Mr. Ferguson was here to testify in favor of this legislation. Tillion said he had the fiscal note and that it really had no significance because it would not cost any additional money. This bill changes the lines of a district. Rep. Ferguson said this bill would authorize Barter Island in the North Slope area to be included with the second judicial district that runs from Unalakleet to Prudhoe Bay. In 1959 the judicial arrangement put it in with Fairbanks. The districts ran the way transportation was running at the time. With the system the way it is and the new ruling last year, people would have to have juries of their peers. The cost ran up quite high and it is also costly for those people to go into Fairbanks for trials or to bring their witnesses in for testimony. He said he was attempting to put in a portion of the district that comprises Prudhoe Bay on the Barter Island side. He originally wanted to create a fifth judicial district but it was felt there wasn't a chance of getting this through. This is to eliminate the problem of persons having to come through one city to get to another where they can have their trial. Malone requested a map to be shown the boundaries. Mr. Ferguson went over to the Capitol to get one. Beirne asked whether the magistrate would remain the same. Mr. Ferguson said there would be no changes in the system but just in the boundary. Tillion noted that the whole boundary system needed to be changed but this would help in the meantime. Beirne mentioned that Rep. Guy was interested in having the same type of thing done for Bethel and asked if it should be done at this time. Orsini objected because it would be creating a fifth judicial district. Chance asked why it would cost money for Guy's bill and not for this one. Ferguson said because it was just a realignment and not a new district. He said he had a bill in establishing a fifth district and it will cost $155,000. The Second Judicial District is already set up so it will only add this little area to it. There will be no additional cost.

Beirne moved to put this bill out with a "Do Pass". Chance asked if we could put Bethel in this bill, too. Tillion thinks we should not do it at this late date. Malone wanted to see the map before final action so the committee went on to HB-93 - Computation of Interest - and will return to this when we have a copy of the map.

Computation of Interest

HB-93 - Computation of Interest. Hayden has prepared a CS CSHB
for this bill and Orsini will explain it to committee members. 93

Computation of Interest

CSHB 93

This is the 365-day year bill of Rep. Fink's. Orsini moved the CS out "Do Pass". The committee wanted a more detailed discussion. Orsini said that interest is basically rent paid on the use of money. This bill defines the terms of the rental. This uses the 365-day year rather than the 360-day year. With computers this is no problem. It confines the effective rate of interest to that stated in the contract. The second part defines what a month is. Malone objected to this because when you have a fraction of a month it is 1/30 and when it is a fraction of a year it is 1/365. There seems to be a contradiction. Orsini explained that it depended upon your contract--whether it was for a month or a year. Then the interest would be figured accordingly. Action was taken on Orsini's motion and the bill was signed out. Tillion, Beirne, and Orsini signed "Do Pass"; Chance voted "No rec"; and Malone voted "Do Not Pass unless amended".

Mechanics' and Mater. Lien

SB 134 am

SB-134am - Mechanics' and Materialmen's liens. The House Labor and Management Committee has rewritten the bill and it changes the Senate Bill only in that area requiring a bond. This makes is so that the primary contractor on a construction job would have to carry a bond for that certain period of time past the notice of completion. In the past, people have paid the contractors for building a house and then maybe a year later they will have a lien placed against their house because a subcontractor hasn't been paid for his work on their house. It makes no difference that they have paid the original prime contractor in full. Orsini said he didn't think that a good reliable contractor would object to this bill. Chance moved that we substitute CSHB 256 for SB 134am and put this out as the CS for Judiciary Committee. She asked unanimous consent. There was no objection. There was further discussion as to how long the subcontractor had in order to render his bill. This bill says he must present his bill before 90 days have passed after the filing of a certificate of completion. If the person builds his own house then he would have to file the certificate of completion. Malone said filing this certificate would make more work for the attorneys. The average person isn't going to know how to post or record these notices of completion. This has to be done within 10 days after completion and then there is a list of things that have to have been completed. Tillion felt this was better than being billed for something you had already paid for. It is a protection of sorts. Malone thought there may be instances where 90 days wouldn't be long enough to get a bill sent out for services. Tillion said in that case they could go to court and show cause and undoubtedly would win their case. Beirne moved this bill out of committee. The bill was signed out with "Do Pass" for the HCS by Tillion, Malone, Orsini, and Beirne. Chance signed "No rec."

Boundary Change/ Dst. Crt.

Rep. Ferguson brought a map and explained to the committee the changes that would be made. The committee was ready to vote now and signed this bill out (HB 232) "Do Pass" unanimously. HB 232

Eminent Domain

HB-381 - Eminent Domain. Hayden has prepared the CS to cover home rule cities with populations over 50,000. Chance wanted to know if there were that many people in Anchorage. Tillion said there was about 74,000. Tillion said he would like to put an effective date on the time of taking property in this manner. Malone said that this bill mentioned Public Law No. 646 and he would like a chance to check into this. After he checked into the public law on credit unions he discovered a lot of things were covered under it. He wanted to hold the bill until tomorrow. Tillion said he should check into the law and have his comments ready for use on the Floor. Chance said that the City Attorney for Anchorage states that the constitution says something about any of the government entities can contract to perform or provide this function for the other government entity. Malone disagreed with her and said there was a case that was ruled to the contrary. The case was in Juneau. That case stated that unless there was a specific granting of authority it belonged only with the state. Tillion said he would like to see a two-year expiration date added to this CS. Malone agreed with this and felt it should lapse on June 30, 1975. This bill will go out with individual recommendation. The expiration date will be added by Hayden before it is submitted. Tillion and Malone signed "Do Not Pass"; Orsini signed it "Do Pass"; and Beirne signed "No recommendation". Malone will review the public law mentioned in the bill. CSHB 381

Alcohol Treatment Act

Beirne asked to consider HS-398 - Relating to the Uniform Alcoholism and Intoxicating Treatment Act. She said this legislation was necessary so they could pick up the drunks off the street instead of letting them freeze to death. This makes sure that the grants will go to the local areas. Malone agreed that this was a problem in his area. Tillion says this gives the authorities the right to pick them up without booking them. Beirne said this was true only if there was no facility available in their area. Chance said this was created because of losing Title IV funds. Beirne moves this bill out "Do Pass". Bill was signed out unanimously. HB 398

Meeting adjourned at 5:07 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, April 5, 1973

Chairman Tillion called the meeting to order at 11:45 a.m. in Room 104 of the Assembly Apartments. Present were Beirne, Tillion, Malone, Chance, Banfield, McVeigh, Orsini, and Kaden.

Disorderly Conduct

HB 391

The first item of consideration was HB 391 - Disorderly Conduct. Banfield said she thought this was the same as what the Senate had passed this morning except they changed $1,000 to $300. McVeigh felt this was too all inclusive. Banfield agreed and said it was very poorly written. Hayden said this came from the AG's office so it should be acceptable. Malone asked if we couldn't recommend that this go to Legislative Council for an interim study. Hayden said he felt that any disorderly conduct statute was unconstitutional but this was an attempt to make it so definite that they could meet the objections they might find in the courts. Chance felt that this needed a lot more work. Hayden said the reason for this type of bill was to allow the policeman to break up a party in a private home. Banfield said that (2) and (4) were acceptable but the others should be rewritten. Tillion said there was a need for a disorderly conduct statute. He said he would hold this bill over until next year reluctantly. He felt that maybe the Senate Bill would be better written than this one.

Sale of Timber

SJR 12 am

SJR-12am - Relating to the sale of timber on Afognak Island. Banfield thought this issue was already closed. Tillion said he got a request to put this resolution out. He didn't think they had canceled the lease. Chance moved this resolution out of committee. There was no objection but Banfield proposed an amendment to add Don Young to the list of names. Hayden prepared the amendment deleting on Page 2, Line 9: "U.S. Senators" and adding "and the Honorable Don Young". Tillion, Malone, and McVeigh signed "Do Pass with attached amendment"; Banfield, Chance, and Orsini signed "No rec".

Real Estate Surety Fund

HB 248

HB 248 - Real Estate Surety Fund. Tillion said that instead of paying the bond companies the state will get the money. The reason for this is that there has never been a claim made. The maximum amount is $5,000 and you have $100,000 in the fund. Any overage would go into the general fund instead of to the surety companies. Tillion said if it didn't have the $5,000 limit he would be opposed to it. Mr. Eastaugh is opposed to the bill. He is representing the bond companies and they are opposed to this. Tillion said there was one other point--that is they may make use of $50,000 for educational purposes such as brochures to inform the public or those involved. Banfield asked if it was limited to those purposes. Tillion said that the real estate brokers wanted it. They wanted to save a lot of money, but we felt that the state should benefit and said the overage would go into the general fund.

Real Estate Surety Fund — HB 248

Banfield wanted to know if the public would be adequately protected. Tillion said this did not change existing law except that the state will get this money instead of the bond broker. Banfield felt that maybe the law should be changed in how it dealt with real estate swindlers. Tillion said you could still get him on criminal penalties. Malone reports this bill out of committee with individual recommendations. Banfield and Orsini objected. Banfield wanted to know how much money you paid for a $5,000 bond. McVeigh thought it couldn't be less than $50. Malone said he thought it was more than that now. This money goes outside of the state, probably to some Seattle brokers. Malone said the state could collect interest of these monies, too, instead of the bonding companies. Chance said she felt the same as Banfield. How do we know about the money that may be appropriated for educational purposes. Tillion said this would be controlled by the legislature because they have to pass this as an appropriation before it can be used.

Orsini said he had a free conference committee and asked to be excused. (Orsini left at 12:05 p.m.) It was determined that the court could not direct the Commissioner to take this money out, so it is properly administered. Tillion said that if a person had a claim they would have to wait until the next legislative session to process their claim. This is common policy in state disbursements. McVeigh said they do this in one bill to cover all such claims by appropriation. He said he thought the AG's office had a fund that paid small claims but all others were paid out of the appropriations bills that are put through the legislature.

Tillion said there was one difference because private bonding companies screen the people more thoroughly, but the state has not had one claim. Malone said he was in favor of the concept. Banfield made mention of the $5,000 bond and thinks this should be raised to $10,000. Tillion said this would require hearings. Malone said that generally if you have a real estate license you are very careful of losing it, so you don't make these kinds of mistakes. Hayden checked the statutes and found that $5,000 was required for a bond now. Malone moved this bill out again with individual recommendations. Tillion, Malone, Beirne, Chance all signed "Do Pass" for CSHB-248. McVeigh and Banfield signed "no rec".

Maternity Leave — CSHB 113

CSHB-113 - Relating to maternity leave. This bill was discussed briefly and Malone moved it out of committee. Bill was signed out "Do Pass" by Tillion, Malone, Beirne, Chance, McVeigh, and Banfield.

Definition Death — HB 285

HB 285 - Definition of medical and legal death. After a breif discussion Chance moved this bill out of committee. Tillion, Chance, and Beirne signed "Do Pass"; Banfield and McVeigh signed "No rec".

Prayer in School — HJR 55

HJR 55- Prayer in school. Banfield and Beirne asked for consideration of this next year.

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proceed.
Legis.

HB-412 - Postponement of civil proceedings when in the legislature. McVeigh explained that this bill allowed anyone in the legislature to have their court proceedings postponed until a certain after the legislature is out of session. In a recent decision they said this was unconstitutional because of Court Rule 40(f) and said that it took precedent over our statute. We want to put this in and get it by a 2/3 vote this time. Tillion said he was ready for a motion to move this bill out. Tillion, Malone, Chance, McVeigh, and Banfield voted "Do Pass". Beirne voted "No rec". HB 412

Interest
Rates/
Request
Congress

HJR 22 - Requesting Congress to adopt legislation relating to interest rates. Banfield asked if we should have federal regulations. McVeigh said that was what we have now and this would make it the same in all the states. It apparently would solve some of the money problems that Alaska is having now. HJR 22

McVeigh moved to adjourn at 12:30 p.m.

1973

MINUTES

(SPECIAL SESSION)

10/21/1973- 10/30/1973

The House Judiciary Committee was called to order by Chairman Tillion at 2:10 p.m. in the House Chambers on the 21st. of October.

Members present were Tillion, Malone, Chance, McVeigh, Banfield, Beirne, and Orsini.

HB 7

The Chairman stated that the committee would be considering House Bill No. 7 - Common Purchasers of oil. Mr. Will Condon will be the first to testify in favor of this bill. He will give the state's position on why we need this bill as written.

Mr. Condon said that the common purchaser provisions in existing law that were part of the 1972 oil package are contained in the Right-of-Way Leasing Act, sections 120(4) and 120(5) of that Act.

In exchange for crossing state lands one of the covenants that the lessee had to agree to was to become a common purchaser of oil or gas and section 120 (4) indicates that common purchaser as defined by that section meant that any lessee would have to buy all oil for common purchase and another possible reading of this is that the "common purchaser" is the common purchaser meaning from the states that have that. If you do buy you have to buy from all offerers in proportion to what they are offering according to your needs. You have to buy say 50 from each offerer instead of 100 from one seller.

It is possible that the way this should be read, because you are a pipeline, and each offerer offers 100 bbls., you have to take the 200 bbls and do what you want with it. If this is correct, then, we are doing something different from what any state has attempted to do. This is a compulsory purchaser provision. In that case, our new proposed bill with respect to oil, is narrowing the scope of the bill. Quite clearly the common purchaser act does not require you to purchase if not already in the business of purchasing. The new proposed bill would require somebody who becomes a common purchaser because he was discriminating to have to buy on a prorata basis. Mr. Lipton said that by this we were narrowing the scope of the bill.

Mr. Condon said he felt they were widening it because this applies to any purchaser in the state, and not just a pipeline owner. The pipeline companies in Alaska don't happen to purchase any oil. We are making it apply to a wider class of people with respect to crude oil. If we were requiring them to become compulsory purchasers--no other state has ever done this. This poses a significant legal risk. Take for instance, natural gas, this is not requiring them to be included in this. I have been questioned about this before, and the comment I would make is that I would go back and do some research of the law. The State of Kansas is an example. They are regulated by the FPC and in that case the ruling was that the state of Kansas moved into an area preempted by Federal statute. You don't have the same thing in the oil area. It is set up in a different way. You don't have any legal pro-lems, in our judgment, requiring a purchaser of oil to become a common purchaser. The only other comment

needed is to say that the Commissioner makes the determination but there is a hearing requirement. He has to make the finding that there has been unjust and unreasonable activity before he makes the ruling that a purchaser must become a common purchaser.

Mr. Orsini asked Mr. Condon to briefly define common purchaser and compulsory purchaser and state what existing state regulations are now. He said that common purchaser meant somebody who prorates their purchases when they purchase oil. If going to buy 1,000 bbls of oil and there are more than 1,000 bbls. offered for sale, then he divides up his purchases and buys from several sellers. A compulsory purchaser, this is not a regular term, it is a provision requiring somebody to buy all oil offered for sale. When you have an oil buying company you have a compulsory purchaser provision. You have got to buy anything that they offer for sale and that is what this would entail. What we have in existing law noted in section 120 (4) and 120 (5) (AS 08.35)--those two sections may be read to require compulsory purchasing.

Note that the proposed amendments would repeal sections (4) and (5). We are suggesting a substitution therefore for this bill. (Mr. Condon) Orsini felt that this more appropriately should be put in HB7. Condon said that this would not be true under the drafting rules. You have to put the deletions on the common purchaser provision in the proposed changes or amendments of the Right of Way Leasing Act. Chance asked if the main thrust of this was that under existing law it is assumed from the beginning that the operators are going to be common purchasers and the new one makes it permissive. If they choose to become common purchasers it leaves that determination to the future. Is that it? Mr. Condon said this was incorrect. The existing common purchaser language in the ROW Leasing Act: What is called a common purchaser in the Act has nothing to do with what is traditionally known as a common purchaser. If they have to buy all oil offered for sale, then if at some future date the Commissioner of Natural Resources thinks some are being excluded, then he says to a pipeline: "You buy all oil offered to you for sale." Mr. Condon feels there are two possible meanings of 120 (4) and (5). He thinks that the compulsory purchaser provision is the proper reading of these two sections. Chance asked that since sections (4) and (5) are part of the litigation--is this because of the ROW Leasing Act? Condon said that there were two reasons. First of all, the ROW Leasing Act would require companies which if they are organized as corporate bodies and buy no oil--the actual companies who are going to own the pipeline do not engage in the purchase of oil. They have other parts of their organization, however, that do. This would be forcing them to buy oil when they are not in the business of buying oil. The other reason is whether you can force somebody, regardless of the business they are in, to require them to buy a million bbls of oil. Our proposed new Act would resolve the questions mainly of what we are trying to do. That is, require people that are going to

buy so much oil and to prorate the purchases that they intend to make. They won't have to buy more oil than they intend to buy. This will not apply to companies that do not have anything to do with buying in Alaska. Chance asked what would be the case if they had a monopoly. Should we require that they purchase oil if they do not own a part of the pipeline. Condon said that that will be a legislative decision. This would have to be litigated if it is worth the risk of a lawsuit.

Chance noted that that is where the common carrier comes in. Can you force them to carry the oil? Condon felt this was true. Chance then asked what the exemption was under (c). Condon said that there were two reasons for this. First, the actual payment of royalties. We would not want to make someone making a purchase become a common purchaser just because they paid the state royalties. We do not want to say they have to become common purchasers. Secondly, if we sell our oil in kind, say to TESORO, the fact that we well our oil under contract, we don't want to burden someone we are selling our oil to make them a common purchaser. It will make our own oil more attractive.

McVeigh asked what effect prices and quality of oil would have on the common purchaser. For example, if I am a purchaser of oil and I needed a particular grade, but I am forced to buy a different grade, this does not seem fair. Another thing, doesn't it eliminate setting of competitive pricing among those that are selling the oil. Are you forcing the common purchaser to take oil at a higher price than he could get from the field next door that was selling at a lower price? Mr. Condon said the answer to these questions was not easy. It all depends upon what kind of order the Commissioner orders. He felt that his order would be issued on the basis of the price prevailing in the field where the company is ordered to be a common purchaser. If somebody is buying in two different fields--different qualities and gravities, the Commissioner is given authority to structure his order so that it allocates--suppose he needs 100 bbls of poorer quality oil and 1,000 bbls of good oil. Then the Commissioner has the authority to take into account the different qualities between the different fields. He can order that the buyer buy 100 or 200 from a specific field commensurate to the needs of the purchaser. McVeigh asked if that was what section (b) says? He said he was not familiar with oil purchases and he would like a better understanding of the issue. Condon said that it was in section (b). This was meant to give the Commissioner broad discretionary power to do that. This is in section 30(b). McVeigh felt there was a problem there. Condon said that actually the Commissioner has the authority and can issue an order that apportions out amounts of oil among the fields. Instead, you have a situation where there is more than one pool in a field having different qualities.

The way the Act is now drafted, he would probably have to prerate the fields no matter what the differences. That's the only problem that I can see. McVeigh asked why this didn't mean the Commissioner of the Alaska Pipeline rather than of Natural Resources. The Commissioner of Resources is on the Alaska Pipeline Commission. The Governor's appointment will probably be the chairman of that commission. Condon said that wasn't

his view. He felt that the pipeline was really concerned with transportation of oil. The Commissioner of Resources is to make the common purchaser determination. The chairman of the Pipeline Commission is interested in the economics of the pipeline and not personally responsible for the fairness of purchases in the field since he is not acquainted with buying and selling contracts, gravity and quality of oil or what the posted prices are, etc. This is more closely associated with the division of oil and gas in the Department of Natural Resources. This does highlight separating purchasing from transportation. They aren't the same thing. Some people think they should be lumped together. We are litigating that point. If we want to avoid litigation, then we need to be separating these two. At least, this has been our theory.

Naughton asked what would be the case if you have a pool of oil--getting it from the field site to the refinery. We build a pipeline. There has to be a common carrier. The pipeline would have to accept all oil offered for transportation. If the owner of the company says this is not a common carrier because we are shipping oil we own--then what? They can get around the common carrier condition. Condon said this wasn't true. They will be discriminating as common carriers both under federal and state statute. Naughton said that if they become a company purchasing oil on the upper end of the pipeline shipping to the end of the destination it is wholly owned and not a common carrier. Naughton disagreed and said that they would tell the ICC that they were shipping their own oil. Condon said they couldn't do this because they are under federal law. Besides, he said, there won't be oil on the front end of the pipeline. If any companies who purchase oil discriminate in their purchases they will be the object of complaints and this will come to the attention of the Commissioner. They will then become common purchasers, after an order by the Commissioner, and they will have to prorate their purchases.

Naughton asked if Alyeska were purchasing and only purchasing oil from certain companies, this would be a situation of descrimination in purchasing, it seems we will have limited the sale of state leases of oil to those already there and involved in the pipeline. This appears to be a devaluing of the oil to the state. Condon said they were never going to buy any oil and not own the pipeline. He said that if the TAPS consortium--there are seven companies in it--they are each doing business. They will each have their own tariff and report to the ICC and the Alaska Pipeline Commission. They will have subsidiaries like EXON and ARCO, etc., and none of these will be buying oil. If the decision is made that we want to try and force the pipeline companies who don't buy oil or their corporate affiliates, we can try and do this. He was only saying that we will have to go to court over it. Naughton asked if he meant that Alyeska would not act properly. Condon said he was not saying they would, but this was all he could say. You couldn't do this without taking a legal risk.

Naughton said he was confused on paragraph 020(c). Chance had mentioned this. Mr. Naughton asked if this didn't say that the State of Alaska cannot order the purchasing company to purchase our in kind oil. Condon said No to this. Because

somebody purchases our in kind oil and we sell it, this will not subject, let's say, TESORO, to become a common purchaser. All it is trying to do is segregate out a set of transactions. Naughton said that a pipeline with in kind oil in effect then cannot be ordered to become a common purchaser--are we then not cutting out the possibility of the state complaining about inequities. Condon said that native corporations will own the oil. They will be perfectly free to complain if there are discriminatory practices in the purchases. Naughton said that was what he meant--if they do complain they can be forced to become a common purchaser. Condon said that this really was a protection for the state and the federal government.

Orsini asked about the effect of excluding the state or federal government from the requirements we impose on others. He wondered if we were saying to them that a purchaser has to buy from all the private oil companies if he wants to buy oil. However, he can come to us and buy only our oil. We are separating ourselves from the rest in this regard. He wanted to know if under existing legislation it was the intent to have them become common purchasers or compulsory purchasers. Condon said he didn't know. This was from the 1972 package. I don't know if they knew the difference in the two terms during those hearings.

Orsini asked if Mr. Condon knew of any group who was pushing for the compulsory purchasing concept? He said he didn't know of any. He had heard Mr. Lipton say that we were narrowing the scope of the bill.

Representative Hackney asked to talk about home grown refineries. He said he was concerned about the possibility of a refinery in Fairbanks being unable to get oil. Is there any way that they can keep from selling their oil to them? Condon said there was nothing to make them or force them to sell to a refinery in Fairbanks. There is no provision in the Act that would require that. We don't think that the pipeline is going to own any oil to sell anyway. The State of Alaska will have its royalties share. The state can sell to the refinery if it wants to. Hackney asked if under present law--can the state sell only to TESORO. Condon said No to this. That contract will expire at some time in the future. Hackney asked if a refinery were built at Fairbanks--a contract would have had to have been made. There is no way to force them to sell to the refinery. Condon answered No, and that any sale taking place in an oil field is potentially affected by the bill. This is just relating to oil sales in a field or from a field.

Hackney said he had heard testimony regarding oil being moved to the City of San Diego for use as heating oil. Would this change in anyway TESORO's relationship to the State of Alaska. Condon said No. Malone asked why not require all purchasers of oil to become purchasers to begin with. Condon said there was no reason not to except that in today's oil market where anybody can sell any oil they have as long as they have anyway to transport it to market he didn't think it would have too much influence in the crude oil market, If there is a glut on the market then the Commissioner can move in and remedy any wrongs he sees. It can be condensed down. It didn't seem necessary.

This is an insurance policy against an oversupply of crude oil someday. If you want to impose common purchaser without a hearing--there just doesn't seem to be that much of a problem. Malone said there is or has been statutes that required people to purchase in other states. Maybe this was a misinterpretation. Have any other states required people to be compulsory or common purchasers now or in the past? Condon said there was none as far as he knew. At least he didn't know of any that required you to buy more than you were going to buy in the first place.

Malone mentioned that in the last paragraph in the bill the Department of Natural Resources is referred to a section of the law on administrative procedure. My question is under this particular bill as proposed, does the Commissioner of the Department of Natural Resources have the authority to promulgate regulations defining what the common purchaser shall do. Condon said he felt they would probably be orders rather than regulations. Similar to what is done in the conservation area. He thought you should leave the Commissioner some discretion. In fact, he felt that you would have to. There are problems of purchasers buying different qualities of oil in different fields.

Representative Beirne said she was having problems with terminology. She was particularly referring to common purchaser and prorating. She wanted to know if ratable would mean the same as prorating. Condon said this was noted in the last sentence of (4) where it says "shall purchase" that which is offered for sale. Beirne said this must mean that we were talking about purchasing anything not just oil. What state unit is "all" in existing language? Condon said that in the proposed legislation it means if you go to the north slope looking for oil coming from the producing field and you want 100,000 bbls and there are a lot of people selling oil you have to buy from them ratably--compulsory purchase provision. Allow pipeline companies who own about 1/4 of the pipeline--they would have to buy if the Commission of Resources rules that they are a common purchaser--they would have to buy every drop of oil offered for sale to them at this time. Beirne said the common purchaser clause indicates that you have to prorate from the owners. Condon said this wasn't true. The compulsory portion applies only when you tell someone they are a common purchaser. As drafted it is possible to read--compelling a common purchaser to buy oil no matter what the source and all of it brought to them. They may or may not want it. That's one way you can read those two sections. Beirne asked if this meant it would be taken into consideration about the grade of oil, plus prorating according to ownership. Condon said this was not completely true. Somebody wants 100,000 bbls of oil so he has to prorate it out among all sellers. He doesn't have to buy more than he intended to purchase. If he is buying from more than one field, then the Commissioner can take into consideration the needs of the buyer. Tha's why the Commissioner is given this discretion.

M. Miller asked to be allowed to describe a situation. He asked if this bill would accomplish what we want it to. He said he had heard the discussion on the Fairbanks situation but what about southeast Alaska. We also have a concern about the fuel

shortage. We mentioned that TESORO oil is not even going to open for heating. Would an amendment insure that any operating carrier of retail oil, like here in Juneau, wanted to buy oil it would be compulsory for anybody who has accepted Alaska oil to have a seel to those people as a general course. I want to put in an amendment. Is this the proper place to put in the amendment showing that Alaska oil be sold in Alaska first before going to points south. Condon said he didn't know about that. He said he would have to give more thought to this subject.

Chance said she had observed that there was a great deal of confusion between what a common carrier was and a common purchaser. The common carrier subject is in another bill. She wanted it clarified in her mind about the common purchaser. There is a group of companies that want a transportation system. They will be transporting only their own oil that they produce-- Do we have to force them to buy other oil to go in there too? Condon said No. That isn't the right interpretation. Because they are a common carrier they have to carry anybody's oil. A common purchaser is only talking about prorating and purchasing. Chance felt we were compelling those that own and transport their own oil to become common purchasers. Then if they only transport what they produce they are not purchasers but there are three or four other parties buying oil for the lower 48. They could be called common purchasers. Then the common carrier--forcing the transportation line to provide transportation for those not having a transportation system. Condon said this was correct.

Meeting adjourned at 3:10 p.m.

JUDICIARY MEETING MINUTES for October 22, 1973

The House Judiciary meeting was called to order at 1:15 p.m. by Chairman Tillion in room 100 of the Assembly apartments. Present were Malone, Tillion, Beirne, Chance, Banfield and Orsini.

HB 7

The committee met in consideration of HB 7 - Common Purchasers. Mr. Lipton testified before the committee on this measure and he felt this legislation wasn't really necessary at this time. He had previously told some of the committee members that if it were necessary to have this legislation now that we should copy from laws already in operation in other states. This would probably be from Texas and Oklahoma or some other oil state.

Malone wondered why we couldn't require that all purchasers would automatically become common purchasers. It was decided that there is no valid reason not to do so. The bill allows that the party doesn't have to become a common purchaser until after a finding of fact. This is not part of the agreement reached with the oil companies. Tillion said they would be included according to pg. 2 line 17. Malone felt that this section (c) should be left in the bill. Tillion suggested that you say "they may be ordered to be a common purchaser" instead of "shall". For instance, we might want to order ARCO to become a common purchaser. Chance said that she understood that this was part of the litigation. This concerned compelling the transporters to become purchasers when they are not in the business of purchasing. This says that since you are buying our oil you are going to have to become a common purchaser and purchase from everybody. She felt that if you leave that in, you will be protecting the state. Malone disagreed on this point. Malone suggested on page 2, line 17, to strike the word "cannot" and to substitute "may". Then anybody taking oil is a common purchaser under this statute. Tillion and Chance both objected and felt that this would be putting the state in a bad position. If the state takes oil in kind instead of the royalty or instead of cash, that places the purchaser in a position of having to pay the state off in oil and they will have to become a common purchaser. Malone disagreed with them on this point. The definition of a common purchaser is that they don't have to buy but if they do buy, they will buy ratably. On the basis of buying oil from the state, they have to buy ratably from everybody else. Chance said this was right. When the state takes oil in kind and wants to sell it, this is giving the state an edge by saying that any company buying from us doesn't have to buy ratably from anybody else. If you sold to Phillips that's no basis to claiming that you are a common purchaser. I think it would hit everybody in the eyes as being unfair. Tillion said this was "may" and not "shall" which lets the state exercise this at their own discretion. Chance said that on the basis of buying the state's oil, the state shouldn't use that to force them to buy from others. You are cutting the state out as a seller.

Mr. Lipton arrived to make his presentation. As stated previously

he didn't feel there was need for this bill. If it is felt that there is a strong need for something like this, then you should copy the Texas statute since they have already worked out the difficulties of this type of legislation. Chance questioned the paragraph which apparently gave the state an edge as a seller of oil. Tillion disagreed and felt that we should give the state every advantage that we can. Chance said that if you do this you are going to have to buy ratably from everybody else. Malone agreed and said that that was what the bill said. (section c, pg. 2, line 17) Orsini said that under no circumstances will they be called a common purchaser. Tillion said if you left it as "may" they could buy--using that they may do it. Banfield felt that we would be leaving room for graft. She thinks we should give the state the edge. She asked if we wanted to give the U.S. government the edge over the state. Mr. Tillion said we would listen to Mr. Lipton continue his presentation and then we could question him. He said that he had had trouble with other legislation that differs from this. He asked for time to consider this bill, particularly since he had seen so much legislation recently. The committee members continued discussion of the bill among themselves while he reviewed the bill. Chance said that the royalties that the federal government gets off federal lands doesn't the state get back a portion of this? If this is true, then we are in effect giving the federal government an edge like the state of Alaska--we are still giving the state the edge. Tillion said that this didn't give the federal government any more power than they already have. Chance read a portion from the bill. All we are doing is saying that when the state wants to sell its oil and a purchaser comes in and takes the oil, then he doesn't jeopardize himself by buying oil.

Mr. Lipton was now ready to continue the discussion. He said the interpretation that we had just discussed was correct. Where a company that is a participant in the pipeline buys oil from the private producer then he can be if the Commissioner finds there has been discriminatory purchases, then make him a common purchaser. The company that participates in the pipeline is actually carrying the oil where they are paying the royalties--the intent is to restrict the common purchaser provision to instances where a company is an owner of a pipeline and he buys oil from a neighbor, then he may be required thereafter to buy proportionately from every private group that offers oil to him. Mr. Peterson didn't think this was what the committee was talking about. Mr. Lipton said that if the pipeline company elects to take royalty oil in kind and the pipeline buys it back from the state, the pipeline thereafter would not be obligated or obliged to buy. Chance said she didn't think this applies to pipeline companies unless they start purchasing oil. This means that any private interest would be included. Mr. Lipton said the intention insofar as it is copied from other states. It is directed at a company who owns a pipeline and then becomes a purchaser of oil. It may apply to a fourth party. The intent is that

the companies who are owners of the pipeline go around latching on to all the people they can get it from. In Texas all of the lifting of the oil from the big fields where there are hundreds of private producers, the pipeline company buys from all of them. If they are not forced to buy from everyone--otherwise they whip-lash people. If you buy oil from one producer you must be compelled to buy from other producers without discrimination. The purchase is made by the pipeline. They are the ones that have the gathering facilities.

Orsini asked if it is the intent then that a participant in the pipeline company taking its own oil is not to become a common purchaser. Is the pipeline company a separate organization from the oil company per se? Mr. Lipton said that it is separate in a sense. It is owned by the parent organization. It does have its own incorporation. It will be wholly owned by the parent company. Orsini asked if Aleyska will purchase oil? Mr. Lipton said probably not. Aleyska is a service company. It is designed to build and operate the pipeline and won't even own the pipeline. Orsini asked if this meant that Aleyska is the operator? Malone wanted to follow up on that thought. In the sense that ownership of an oil company in the pipeline would be expressed by a separate corporate company which may from time to time be in the business of purchasing oil, are they just shipping the oil or are they buying it? Mr. Lipton said they would be considered only as shipping it. They are selling transportation services. Malone asked if there isn't now in the U.S. any statute that Mr. Lipton was familiar with that requires a company to consider the amount of oil they are putting through the line themselves. He said he didn't know of any. That is covered in a different respect. Texas and Louisiana do this by prorating. In this given field all producers will be allowed to operate--in that particular producing area of the state a company that may also be a representative from independents are able to produce in that area. This is no longer the case because of the oil shortage. We have always felt the essential difference between production in Alaska and Texas, Oklahoma, or Louisiana is that individual companies are individual purchasers or independentsoilmen will negotiate with a firm--or whatever. Big companies try when they see something very attractive to line up--to line up all the leases they can before the information gets out. When there have been surplusses the state tried to provide equitable production among everyone. So they didn't produce only--common purchasers shows that the pipeline company couldn't buy from small independent producers without buying from all the rest. The circumstances in Alaska, since there really isn't any private ownership of land--you won't have that problem. You wouldn't have small leases of land. This will be in large blocks. You will have companies here who will have an important role in the production. They are protected in the transportation by the common carrier. There should be no

problem with any producer--say on the North Slope. In the world as we see it, you will be able to negotiate favorably for this crude oil. That is on the assumption that the world situation looks the same a few years from now as at the present time. In time it may become important to have a common purchaser provision. Whether it is needed nor--or whether it should be enacted now--the reason for putting it in the Right of Way leasing Act. Once the lease was given, you lose the leverage. My recommendation would be to pass it up at this time and if you find there is need for this later, then pass a bill on this subject. It really isn't a problem today. You would have plenty of time to review whether there was a need for it. Then write up a clean piece of legislation to cover your problem area. Perhaps the state doesn't have the right to force common purchaser upon pipeline companies. In that case, you should therefore do it now. Have it enacted at the present time. If you do have the legal authority to enact, I don't think you need to be in a hurry.

Mrs. Chance said she didn't think there was a rush. She asked Mr. Lipton why the oil industry wants this now? He said he didn't think that they did want it. He thinks they felt there was pressure for it and they didn't like it as a condition of leasing. They would go for this kind of a statute. If they would accept it now, it doesn't mean that the state--he said he found it very difficult to conjure up the circumstances where it becomes so greatly important. It is usually written as a condition of the lease, but you may decide to enact legislation instead. Orsini asked if he was saying that it may not really be legal to do this. Mr. Lipton said he didn't mean to imply that. He said there is the opinion that the state may not be able to impose common purchaser on a buyer without enacting the law. Under federal regulations this is done as a condition of the right of way leasing act. He read some information about offshore leasing in Louisiana and Texas.

This is done as a condition of the use of federal lands in the right of way lease. Orsini asked if by passing this, wouldn't the state gain some sort of upper hand by its unchallenged status. Lipton said he thought that would be true. If you feel it is important either if as a condition of lease or you want to avoid too much litigation I think you could go ahead and enact this and the industry said they will accept this. If it has to be strengthened you can amend it later. (1) no common purchaser provision and (2) enact this now so that in the future you can correct anything necessary, (3) try to keep it in the right of way leasing act as a pre-condition of the lease. These are Mr. Lipton's recommendations. Tillion askedif he was saying that we should leave it in the right of way leasing act and not put in another bill? That way they would have already signed the agreement that they will abide by. Lipton said he didn't think the right of way

leasing act would delay the pipeline. Art said that Mr. Lipton had prefaced his remarks in one instance by saying if there were no legal barrier--what were you referring to? Lipton said it was the argument of the pipeline companies that this exceeds restrictions on state commerce and therefore it is null and void.

Malone said that in the federal law on offshore leases the fact that we are not getting into the area of ICC -- maybe we could pattern it after that. Lipton didn't think that really is going to be one of the sticky points. He said their main concern is with power, authority, and jurisdiction which is the main thrust of the right of way leasing act. They are going to pursue this. To pass it as a piece of legislation and have them accept it would also be a precedent. Legislation is bound by its taxing power. All they are saying is that they will not litigate this legislation at the present time. They might litigate part of it at a later date. Chance asked if it didn't compell them to purchase whether they wanted to or not? The bill introduced says that if anybody decides to start purchasing in the field, then they become a common purchaser. Isn't it the compulsory aspect that they don't like? Lipton said yes. Chance said that we are not compelling them to sell to the pipeline companies but the pipeline company is compelled to buy whether they are in the market to buy or not. Wouldn't the common carrier status give the greatest protection. Lipton said that TAP will be a common carrier of the interstate movement of oil classified as such by the federal government. Chance said that in the litigation we are compelling them to purchase. Isn't that the problem? This is just the pipeline operators. This means anyone, once they start purchasing oil in the field, they have to become a common purchaser. Lipton said this could be avoided by having the purchases made at Valdez or in transit, or even at sea. Chance asked how they could get around that? Lipton said this is not really a very effective plan or piece of legislation as it now stands. Tillion asked if he was suggesting that we hold this bill until we get the right of way leasing act bill and reinsert this material into that act. Lipton said that if you are determined to maintain this protection for the state, this is the best place for it. Tillion asked if this bill would be better than copying say the Texas law? Lipton said he thought this is the best. Two areas of regulation--the Alaska Pipeline Act and the taxing bill in combination are necessary. Lipton said he was not prepared to give a presentation on some other bill. He said he was prepared to recommend a modification of the right of way leasing act provided that the legislation retained a strong and regulatory and commission act. The amendment set down as the Pipeline Commission Act by the act of the Alaska legislature really denies to the state all of the regulatory authority of which there is no doubt that it has. And a lot--they may have but you don't know how far it goes. This is because of

the clauses in the legislation that are so disabling that you are left with -- (nothing)

Pipeline Commisssion Act--What it says in effect is--that you have in your old law of 1972, sections 240-420-which deals with the powers. Sections 140(3) (8) (9) give jurisdiction to the pipeline commission. But they say those sections shall not apply to a pipeline or pipeline carrier. Now you are talking about the owner of the pipeline subject to the _____That means that the minute the pipeline itself is subject to the jurisdiction of the ICC the carrier becomes subject to this, jurisdiction would not apply to the trans Alaska pipeline.

These are the provisions and 240-420 and 140 (3) (8) and (9) are in existing law and they stay there. The difficulty is that your pipeline companies can apply these powers only to pipelines that are in no sense directly or indirectly or otherwise to ICC. They cannot apply these to Transalaska Pipeline Company for instance. Our thinking is interest on the power over the tariff. What happens if the pipeline tariff is too high? The states revenues of production will be a percentage. The state gets less revenue. Approximately 20 per cent of the well head value goes to the state in severence tax and royalties. The state therefore has an interest. When is the tariff reasonable and when is it not reasonable? Will the legislature periodically take time from its other duties and review this? You might call in some consultants. We would say there is no way to tell quickly. You set up a pipeline commission and vest it with jurisdiction to review tariffs on intrastate movements. This is not interstate. This state is also in the position to take a portion of its royalty oil and move it through the pipeline to Valdez--under the old statute the transalaska companies would list a tariff with your pipeline commission. They would look at it and that would be okay. If they disputed that tariff there would be a whole lot of things that would have to be done. Investigation, hearings, everyone would argue their case. This would be after prolonged hearings that would go back and issue a decision. They would have to put on record the basis for their findings that it was too high. If the companies don't like the decision, they could then go to the courts. Although the pipeline commission has jurisdiction, it has exercised its jurisdictional authority in an arbitrary way which deprives us of our rights to our property without due process of law. If they lost in the courts you would have administrative judicial--the legislature could then expect--not on a basis of the experts judgments--that the companies would not affect reducing the tariff. If they refused, they say they have the right to keep it that high--the legislature would know how much of a difference. Then you don't have to know how much--there is nothing arbitrary.

You have a determination throughout the process of law as to what, in the mind of Alaskans is the proper tariff. Then you could get

your loss back; otherwise you could go into endless debate. In the 1972 laws you set up a pipeline commission--three professional members--with this amendment you take away their powers. You have made of the commission two exofficial members plus one appointed member. How much time can they possibly spend on a rate-making determination. That is why we feel that your regulatory bill--the Alaska pipeline act is the foundation for everything else that you should consider because that together with your taxing power gives you tremendous control over the facility and interest of the oil. Equally important it provides protection to the industry against capriciousness on the part of the Alaska Commission or the legislature. The reason being because the pipeline tariff is too high.

If you do that, we think it is a tremendous thing for the state. The one thing it seems to me, the spirit of compromise is on the land. It may even delay the pipeline at some point in the future. The additional delay may only be two or three weeks, but if it comes at the wrong time...

He said he felt there was merit in a negotiated compromise. He doesn't think there is merit in the entire package. This basically is the set of recommendations he is prepared to make before the legislature.

Malone said that Attorney General Havelock stated that the agreement between administration and the industry on the scope of the authority of the commission which was central to the whole agreement--my difficulty in understanding that is that whatever authority the state claims might conflict with the authority of the ICC or the FPC, that we would be informed by these agencies that this particular subject is in the scope of their authority. He doesn't see why this is a key provision in the package.

Mr. Lipton said that he supposed that when you have two opposing groups making up a compromise you would have some problems. This is the package--and I feel very strongly about the regulatory bill. Insofar as there are jurisdictional questions between pipeline companies and the ICC that they can always be resolved by litigating when the conflict of jurisdiction occurs. With Right of Way leasing, if they don't take care of it now, they give in at the start. At the moment the jurisdiction is exercised they can litigate over the right. More importantly, where there is undoubted jurisdiction,if it is exercised in an arbitrary way, no administrative agency has the right to impose compulsion on private citizens. This is always available to them and they d-n't concede anything. I can't believe that this is something in the circumstances of our duties that this is going to leave our corporate executives to say they are going to litigate. The avenues are always open and they haven't lost anything. Our recommendation would still be, don't pass it even with the amendment.

Chance said that Mr. Heath, the EXON attorney stated that in the Senate the other day. Mr. Lipton said they didn't know how the pipeline commission is going to operate. You have to go to the Act itself. You have to consider the statute as it stands. Among the things they find troublesome--section 140 (8) which requires permits for the construction, enlargement, extension, etc. I don't think they will be interested in this. In this particular instance this length is largely designed for interstate commerce. Inspection is to be by the federal government. They don't want to limit their own jurisdiction--shown by our willingness to show--it is true that the moment a company undertakes to conform with a piece of legislation in a sense it implies a certain acquiescence in it. I cannot believe that this would be one of the sticky points. If there is a compromise, is this the only one in the world that is also set. You, by act of your own legislature, deny to your pipeline commission a whole range of jurisdictional authority which they have the right to claim by precedent in other states and which are essential to the state. You are saying you are withholding from your own pipeline commission this jurisdiction by passing this.

Malone said there were three basic legal objections satisfied by this package. (1) The state's ability to contract that they don't otherwise have, (2) fairness of the royalty credit, and (3) scope of the authority of the pipeline commission.

Of those three things, it seems the only one that has any immediate impact is the one that relates to the Right of Way leasing. Mr. Lipton asked why they made a legal issue out of the royalty offset. You can always handle the severance tax problem and recapture loss--get rid of the royalty offset. I think this is the worst possible time to determine the severance tax that will be effective six or seven years from now. The best I can give you is that you have on the books what is essentially a good severance tax. You have protected your interim revenues. The governor's bill is as good as any other. It gets rid of the royalty thing. Pass it provided that it is made clear that this is done as part of the package that in no sense it involves a moral commitment that in the future you will not review the severence tax according to the state's needs. With a limited time for the session, I don't think you should try to perfect a severance tax now. Commerce Committee will be hearing the Commission bill at 3:30 p.m. Malone said that when we have the right of way bill before us--when will it come to the committee? Malone asked if Mr. Lipton would also testify on that bill. Tillion asked if it were necessary for the members. Beirne asked if we could do some groundwork on the right of way leasing act now. Orsini said we also had the state leasing too. Lipton said this didn't fall in his line. Orsini asked how necessary that certain portions of land be owned by the pipeline companies. Is it the general practice that the type of facilities

have to be owned or could it be leased? Lipton said they like to get conditional title to the land. Chance asked if there wasn't some relationship in having title to the land, they are going to pay the tax. Dr. Fritz asked Mr. Lipton to comment on the fear that some legislators have had on owning versus leasing. The fear seems to be that the oil companies would get acres and acres of land and only 75 per cent is used for the facility and then be able to sell the other 25 percent at a tremendous profit. Mr. Lipton said it was difficult for him to answer that. He said he would assume that the commissioner would scrutinize the request for change of title. Beirne asked what would be the possibility of a lease, but if in due time the oil companies do not need all the land, if there could be something written in--when the time occurs they don't need the land that it would be returned to the state for sale. Mr. Lipton said this can be done on a contractual basis. Land can be sold to the companies with the provision that if they offer for resale, that the state be allowed to purchase it. Beirne asked about contiguous land near the plant--this might be of importance to businesses.

Orsini--on all this legislation, are we passing this with a view only to the one pipeline? Lipton said he didn't think so. We have always used severance tax legislation. Malone said he would like to make a brief statement about the land. Sale brings the state immediate revenue. He thinks this needs to have planning. They could speculate..the point you touched on before briefly. Taxable property within reach of the states power. What type of blocks or bars would you see in the financing of a TAPS if...

Mr. Lipton said it depends on the variables in an ad valorem tax. What rate you put on the property, etc. Obviously the companies don't think there is any problem on a 20 mil tax. It is the same thing with respect to production reserves in the ground. I don't think that would change the nature of the case. When you are talking about 4.5 million dollars investment in a pipeline, this means several million dollars in the facilities to handle the products. Canada went up to 16 2/3 per cent royalty. They had limited the applicability of a higher royalty. They could have raised it to --but it would have been inequitable. They enacted a resource tax. This included the oil and gas in the ground. The companies could choose. They said to the companies--you can pay the resource tax or you can avoid this tax and take the oil royalty tax. This was used as a device to induce companies to accept voluntarily an increase in royalties. The companies computed this out. They made different choices for the different companies but they made the choice only once. Malone asked what difficulties have other governments encountered in placing value on a reserve in the ground. Lipton said you don't try to assess the value at market value. You put a nominal value on it and a mil rate that applies to that area and get your income. Nobody has ever tried

to place an assessment on oil and gas in the ground that they could come into the courts and say you had exceeded the reserves in the ground. Randy Barry asked Mr. Lipton if he could explain--you indicated that with seven different companies as part owners of the pipeline that there will essentially be seven different tariffs. Lipton said this was right. This is saying the same thing as saying there are seven pipelines. In most respects the capital costs will be the same. This is going to be built by Alaskans. They may have different overhead costs. They may have different operating costs. The big distinction could be in the interest charged on their debt. They may or may not go for the same percentage of debt with same interest rates and borrowing terms. They would already have a legal basis for a difference in the tariff. The different companies may push--in effect there has been a difference in the tariffs quoted by the owning companies over the same distance of movement or tap line. The difference there was that the companies had different utilization of capacity. Barry asked if this would be true if one is a separate common carrier. Lipton said yes, each one individually and separately.

Beirne asked if there would be say five actual individual carriers, or was this merely a graphic illustration? Lipton said this was only an illustration. Chance asked if there were an ad valorem tax placed on the oil and gas in place, this goes into the cost of the oil and will reduce the amount of royalty to the state, then when production starts, that is replaced by the severance tax? Would that ad valorem tax be also charged into the royalty? Mr. Lipton said this wouldn't be the case. Chance asked again if this would not reduce the royalties. Lipton explained that the state gets 20% from producing companies and then from the pipeline.

Chance asked about taxed oil and gas in place. If the property tax and the mil rate is identical, then what? Lipton said that as an example: In 1974 you place an evaluation on the pipeline property as one billion dollars. You have a 20 mil rate. You will have an immediate cash flow into revenue. If you value the producing property and said it was worth a billion dollars you would have gotten more from the producing companies because they get a portion of this back as a cost against the pipeline.

Orsini added to this philosoph- of taxation. This is particularly on nonrenewable resources. Tax to provide service for the people. The other tax--we tax as much as we can. Even if it exceeds our needs. Even if we exceed what we expect now as our needs, since at some point in the future these resources will no longer be there. The state would be justified in having the high tax for future generations who will have that need. Lipton agreed w/ Orsini.

He said he didn't presume to tell Alaska what makes the most sense for it. Countries that have been able to make rich profit of operations have thought in terms of how much could they get even if it was a tremendous carryover. Orsini asked where this would put us legally? Would the courts show that as excessive taxation? Lipton said he didn't know when a court would interfere in this respect. Orsini mentioned the North Slope oil companies that had taken this to court. The money that would come in would far exceed that needed. Lipton said he didn't think that was the problem there. This whole thing was about the borough being legal. Chance said she thought this came from the discussion with Mr. Spahr. They have challenged that it wasn't a constitutional tax because they were paying taxes for services not rendered.

Tillion said that part of what they did was tax just oil and exempt everything else. Malone said that in addition to that, he thought the local government was under current statute and are not allowed to place a levy on the oil and gas in place. That is also a point in the litigation.

Meeting adjourned at 3:00 p.m.

The House Judiciary met in the committee room of the Assembly apartments at 1:30 p.m., October 23, 1973. Chairman Tillion called the meeting to order. All members were present.

HB 3 Discussion of HB3 and its adjustments continued. In section (a), the word "acquisition" was deleted--the justification being that they were talking about transference. The commission has to approve the pipeline criterion. When this was brought up he said he would fight over it--they need that flexibility. Mr. Lipton stated. Keep the commission and other regulatory powers and we are o.k.--when you delete "acquisition", you are saying nothing about the future purchasers.

Ms. Chance: "is a carrier and"...explain that to me please.

Perhaps it is to recognize that at the present time the pipeline company is not a carrier--that is a possibility. The two provisions open to appeal--abandonment or trans_____ment(?).

Bill section (4) replace or repeal section 60 (?).

Tailor its language to be consistent with the approved sections 30 and 40. Don't repeal it as the Governor has proposed. Dont make the change the Governor has suggested, leave existing law as is., slightly modifying section 80. WE want to require the public hearing, that is important for investigating--leave the old 70 but slightly modify section 80--these are Kilgore's recommendations.

Mr. Peterson: Have the expressed language on application. Maybe we should include a provision. Section 90 is not proposed for change and Mr. Kilgore goes along with that. Section 100 we are leaving for future consideration. Another committee is researching and then we will share information. Section 110, the term of lease.

Mr. Orsini: The lease is re_____ is renewed every five years? That is just a general provision. As long as the oil runs through the pipe the lease remains unchanged.

Section 3805 was discussed.

Mr. Lipton and Mr. Levy's recommendations and the Governor's bill were compared.

Section 120 Covenent--He sees no problem with the lead in language the deletions of 1 and 2 are o.k. Paragraph 3, HB3, pg. 5 was discussed.

Would this put the responsibility of building on the carrier? We do not have our language worked out for this paragraph 3.

ICC will allow them tarriff differential to make up the cost.

A common carrier cannot take more than its capacity, but they must take all oil. The man with the feeder line will pay extra for that service? No, he would have his own. The tariffs will be adjusted, the little guy would have to pay for the hook up but not all at once.

Mr. Lipton fielded most of these questions.

Line 17, pg. 5 HB3 - common purchaser is nothing--common carrier is more important.

pg. 6 - we are deleting common purchaser and common carrier and these are really important. Mr. Orsini: Does this apply to pipelines in the future? yes

pg. 6 - (4) is entirely deleted. We will have a separate bill from a Texas law. Deletions of (5) and (6) are acceptable by Mr. Kilgore. However he stated that if we repeal our commission bill we have given up everything--retain a strong commission. They are assuming the commission will exist and the commission can do many things--but if these things were put into their leases it would be much worse. Both are economics.

(7) is something he'll give us additional information on. Pg. 7: It was asked what this would do to states' imminent domain--we shouldn't give up on this right (?).
(8), and (9) are felt to be acceptable. It was thought that the reference to the pipeline act (AS 42.06.430) should be sufficient.

Company owned and new language (?). Recommends deletions of everything--some deletions we are going to have to accept. You are going to have to give up something. We don't want to risk holding up the pipeline. All we want to see if if this is _____ it doesn't hold up construction.
Section 10, pg. 8--Levy allows that this may be significant. Mr. Orsini said that just as landlords--we require this. It was noted that land [pipeline] was a non substantive language change. It was felt that the whole of section 10 was giving too much away.

Mr. Malone noted that the state needs the highest standard of strict liability. Section (11) was discussed and the staff will discuss it further. It should be read with sections (15) and (16), What kind of provision whould be established here for individual owners. Should it be left up to the Supreme Court to establish, or should it be put in the statutes? Malone felt we should ask the Attorney General about this.

Pg. 10 sections 14, 15, and 16--we protect, but this is not strict liability. Mr. MAlone: We should specify what applies to personal liability. Mr. Tillion said that he preferred to require it. It was decided that Mr. Havelock would be consulted.

Sections (12) through 16 are o.k. with Mr. Kilgore. Section 14 remains unchanged, 16 and 15 are new. Section 15--is this absolute liability for the state? Apply standard set out in section 11.

Under strict liability, state pays for act of God accidents. Mr. Tillion then remarked that strict liability is what it should be. Subsections b, c, and d are new and acceptable to Mr. Kilgore.

Put in new provision in government section--to answer questions of dual use of corridor...now is the time to put it in.

On pg. 11, HB3, section (c) it was queried, if their leases aren't equal, their liability shouldn't be equal either then.

Section 140 is o.k. to delete if percentage rental is also deleted.

Rental form as presented by Governor seems o.k. to them. Rental won't be affected by the fact that 2,000,000 barrels of oil pass over that land.

Section 150 (?) - believes the repeal is o.k. It is covered in other language.

Section 160 They propose a little change - pg. 13, line 6 We pick up some language that appeared earlier in the bill so we specify parties more. Mr. Malone asked if we should add "30 days before transference". It was also suggested that the word "pipeline" be put back.

Section 170 - Mr. Lipton's philosophy was that if you get the information out, the legislature has all sorts of avenues for regulation.

Mr. Peterson's suggestion concerning section 170 on pg. 13 was that there be some change, but that we don't have it now.

Section 180 - there were no special comments - it would be spoken upon later. The Governor repealed a certain portion of section 190 pg. 14, lines 10 through 12 concerning leases...Mr. Kilgore didn't object to this.

Section 190 BCD repealed, pg. 14. - no more objections to other repeals.

The meeting of the House Judiciary Committee was called to order by Chairman Clem Tillion at 1:50 in the committee room of the Assembly apartments on October 24, 1973. All members were present.

Mr. Condon stated that some definitions that were not theirs were redone...the work draft copy was read and discussed. Page one contained only technical changes.

HB 3 There was again discussion on HB3. Mr. Orsini asked about the deletion of the word "acquisition". Apparently we have no control over future leases and whether they will be as able as we hope.

The commissioneer may examine all companies and enforce them to comply with security standards. Their permit will or may be canceled if they do not comply, stated Mr. Hurd. He went on to elaborate: the state may and can come in and take a company's position if they do not comply with regulations.

Leaving the word "acquisition" out would mean that the commissioner would have to redraft a Right of Way lease every time a change of ownership occured. The new guy should just be responsible for the old lease--stated Mr. Condon.

Ms. Chance : Why delete "is a carrier and.."

Mr. Condon: We decided that we were worried about the word "lessee" and it covers all of them so to make it easier -- that was deleted. To be simple, and as a matter of drafting style, it was changed.

When the word "person" is mentioned it doesn't seem to include municipal corporations, Mr. Malone brought up.

The sentence that states a lease may be granted does not exclude them said Mr. Hurd.

Pg. 2 of the draft--We don't want field gathering lines to become common carriers--if they do, it is going to raise the states costs. We will have to pay for a rate of return. We expect that there will be a lot of them and we don't want to have to write new Right of Way leases all the time. Those lines we don't want to be common carriers said Mr. Condon. They would use that term to get a rate of return.

If you don't make them a common carrier then they wouldn't have to carry anyone's fuel. said Mr. McVeigh.

I can envision many lines all over the place stated Mr. McVeigh and Mrs. Beirne.

It seems you have full control over section 330 stated Mr. Hurd.

This is only put in so that they are not inadvertently made common carriers stated Mr. Hurd.

Carrier systems for the Prudhoe Bay will not file tariff charges with the ICC.

Mr. Condon and Mr. Hurd, and Mr. Kilgore discussed gathering lines and common carriers and attempted to define the two succinctly-- Mr. Condon felt that it would not be in our interest to make them common carriers--it would be too costly. Mr. Hurd and Mr. Kilgore discussed this. Mr. Malone only wanted a definition. Mr. Condon said he would try to write a definition.

Ms. Banfield moved that " on producing land" be deleted with a definition forthcoming. The motion was passed.

Section 2, insert a: on abandonment - Mr. Petersen explaining the deletion--to make the language uniform and clear. The change in section 40 is essentially the same. We can retain Governor's version of section 30 with the parenthetical language covering it.

Mr. Hurd objected--this is one place that goes beyond state and federal jurisdiction. It is like coming to the commission to ask permission to make business decisions.

Mr. McVeigh: this is one area involved in litigation now?

Yes replied Mr. Hurd

Would this continue litigation? It doesn't solve anything does it? Mr. McVeigh asked. Are we here to avoid litigation or not? If so and that is a key issue, we are not doing our job! McVeigh

Mr. Condon recommends that sections 30 and 40 be deleted. Next change is insert b, page one of insert sheet. Art Peterson discussed "application" and made everyone aware of changes. Change the part concerning "newspaper" and put in "in the vicinity".

pg. 3, deletion of repeal of section 80-A. Peterson continued to go over sections--no discussion.

Mr. Condon: Most of our drafting should be done to say something should be done about products lines becoming common carriers. (?) Natural gas lines are not in this law suit. You can't make natural

gas lines into common carriers. We put a lot of stuff in here about guarantee of oil, but you may take that out. You should put a sentence there about product lines. Don't let section 3 leave a doubt about Right of Way leases.

The common carrier doesn't have to accept an oil that would contaminate the rest of the oil carried, stated Mr. Hurd.

Mr. Kilgore: I just don't see why the state should limit itself.

Mr. Peterson continued on with pg. 7, insert C: option provision changes both the existing and governor's proposal.

Mr. Condon -- where is "do not exceed 20%" Art said that would be easy to include. It would appear after "within the state". Points considered were--stating purchase price, insuring the repayment by assuming obligation on assuming it. It is absolutely essential to the state. Discussion followed. Go back to the original language.

"Highest degree of care" is what concerns me stated Ms. Banfield.

HB7 Mr. Condon said, pg. 2 (c) is to give the state a good deal.

October 25, 1973, at 10:50, Mrs. Banfield called the meeting to order. All members of the House Judiciary were present.

Do we need it asked Millie.

HB3? Mr. Havelock revealed that a common purchaser provision was enacted when there was excess production. It was meant to protect the producer during excess conditions.

Then this too is a white mink coat said Millie (referring to a story she told--when her daughter was little, she always wanted her mother to have a long, white mink coat; this would have been nice, but it really wasn't needed.)

As far as a common purchasers bill as this now stands we don't care about it--said Mr. Hurd.

Really it ought to be - if this is passed - those three sections should be written out. continued Mr. Hurd.

Mr. Peterson: Paragraph 4 of covenant section takes out that language.

The Texas statute only relates to oil owners who are affiliated with carriers. From that standpoint we are making it broader. Mr. Peterson.

Ms. Chance: In the Texas statute it seems to be doing the same thing. The Texas one is more stringent. I am opposed to this on a mandatory basis. It is not in the states' interest for all to become purchasers--if it is up to the commissioner to decide what is in the state's interest it is stronger.

It was moved that the committee substitute be accepted. Mr. McVeigh asked why it was just not ignored.

Mr. Malone stated that he didn't really want to vote on the substitute, he wanted to hear a contrast of ideas from Mr. Berry.

We want a common purchaser bill stated Mr. McVeigh. Mrs. Chance voted that the committee postpone action on this.

I think every bill should come out of the committee and on the floor in this legislation stated Ms. Banfield. Thereupon Ms. Chance withdrew her motion.

HB 7 Mr. Malone then suggested talking on HB 7.

Common Purchaser Pg. 2, HB7--Are there other reasons besides not wanting oil to be prorated? asked Mr. Malone. The only reason is that Mr. Condon drafted this bill and he is an expert. replied Mr. Havelock--he continued...I think it would weaken the statute if we make it mandatory. Doesn't the existing statute make it weak? asked Ms. Chance.

Our present statute is not mandatory replied Mr. Havelock.

If it is in the law it would essentially protect everybody stated Mr. Orsini.

By putting it in this, it makes it much narrower than it would be in a separate statute. Mr. Havelock.

What does the size of the field have to do with it asked Mr. Malone. It would be appropriate if it would be an economic unit. Mr. Hurd (?)

Mr. Berry: the Texas statute has been tested through the years, it goes into more detail than HB7, it is more explicit than the Governor's proposal. It doesn't leave a lot of administrational leeway.

Mr. Orsini and Mr. Berry discussed the cost of enforcing mandatory common purchasing.

Mr. Berry: The first section sets out the coverage (?). It also brings in the purchasers on production. Once a producer purchases from another producer--he has to prorate his oil sales.

Section 40 is just a provision that states this act as being not authorized to violate other laws. Mr. Berry then went through the whole bill section by section explaining it.

Sections 70, 80, and 90 all concern themselves with penalties. If the purchaser ruined oil they must pro rate their ruined purchases. Can we change this wording? Yes, if we accept the substitute bill replied Ms. Banfield.

The state is not going in and saying you shall produce so much oil from this field. Mr. Malone. Yes, it's tied into this replied Mr. Hurd.

Differences between the proposed HB7 and the Texas statutes were discussed.

This matter of forcing someone to go get oil is not a problem stated Mr. Hurd to Mr. Malone. Let's change the wording to "may" if it will help replied Mr. Havelock.

It doesn't help anything--and we are spending time on lots of things that don't amount to much replied Mr. McVeigh.

I move we pas it out due pass--Mr. McVeigh. Objections were heard.

Mr. Orsini spoke of the penalties and the possibility of them being raised. Mr. Malone asked if this was just a civil penalty that was being discussed and Mr. Hurd replied yes--rather Mr. Havelock.

Ms. Banfield suggested that the penalties be adjusted when the problem arises.

(action)
Under HB7 would both of them have a private right of way? it was asked. Mr. Havelock responded that that may act as a limitation on private action.

No case has ever come up over it in Texas history said Mr. Hurd.

All bills must go to the floor that is why I passed it due pass said Mr. McVeigh. He went on to say that he did not give a damn about this bill. Mr. Malone however, pursued his questioning.

Leave field gathering lines under section 330 advised Mr. Hurd. Mr. Malone moved to amend HB7 to include section 100 in our proposed bill -- include "shall" after "commissioner" to read "may".

Mr. Orsini moved to have the second "shall" to "may" - there were objections - then discussion and comments. A new motion was made to ammend HB7 as submitted to include section 100 changing the first "shall" to "may" and adding the words on line 28. Mr. McVeigh objected however it was amended. Mr. McVeigh moved that it be a committee substitute instead of HB7. The committee substitute was moved out of committee with a due pass. Mr. McVeigh moved and it was passed by a majority.

Mr. Lamont will speak again to this committee at 1:30.

Pg. 4 of proposed HB7 by judiciary committee reads - the amended version - "may" , "not", and "shall" and includes "unjust and unreasonable discrimination".

Meeting was recessed and convened again at 1:40 - Mr. Lamont was present; he is a lawyer from Iowa, worked for the justice department with pipeline regulations. He stated that the substance of what he told the Resource Committee was you have a very close partnership with three very large companies--it deals with 2/3 of oil in the U.S. If you control a highway to a market, you control the commodity market. It controls internally its own transportation system, oil company.

The Hepburn Act of 1906, a provision which includes pipelines as common carriers, this just gave a label but no control. It would not specify how much they were to be regulated. ICC cannot say you have to have depots--they have no control concerning facilities.

All that a pipeline is required to do is to do whatever it wants to do. This ties in with the anti trust laws. This constitutes an offense under existing anti-trust laws. It helps the already existing problem of companies having what I think is illegal dominance. I think your 1972 legislation gives effective control. Relying on the ICC to regulate causes more problems. Does the ICC provide that effective control? was asked--It is our thought that they do not afford any public control.

What the ICC can do was in truth very minimal. The ICC is a classic case of regulatory abdication of power. Ralph Nader says to say this many times. Under the Right of Way act there would be state commissions that would have authority to regulate. HB7 was then signed, the committee report was also signed and then sent over to the chief clerk's office.

More questions were then asked of Mr. Lamont: You must worry about the other oil fields that are put in the Prudhoe area as has been stated by geologists. How will that be priced and controlled? Will they have to go out by this pipeline? In the absence of a strong ICC we are encouraging litigation? asked Mr. Malone. Yes replied Mr. Lamont. For the pipeline is so controlled by public authority, then this helps as far as anti-trust compliance goes. Credible information is by far the biggest obstacle in the way of the states insuring good regulations.

EXXON's computer is in Houston, the records are there so they will give you information, but only what they want you to see. Their headquarters are not in Juneau. I am simply suggesting that you think about this and how you can do this getting of records. All these remarks were offered by Mr. Lamont.

What about putting it in our income tax records? asked Ms. Banfield. Are they opin for your scrutiny? In California they are not, only in the case of proving fraud. They can move their profits down along the line due to so many bartar (?) transactions along the line.

Mr. Malone asked Mr. Lamont if the FTC had agreed with some of their conclusions--Mr. Lamont said yeas he did agree - he even wrote some of it long ago.

Mrs. Beirne asked about abandonment and Mr. Lamont said there were no ICC cases concerning this. Intra state regulations can address this problem. The FTC has actually an overlapping jurisdiction with the ICC. The FTC - can call on common carrier documents for investigation. The FTC has jurisdiction over natural gas companies but not oil--in answer to Mr. McVeigh's question.

What are the chances of this oil line not being considered an interstate carrier? I think it will be an intrastate. We should pay close and careful attention to the Right of Way and other regulations we have access to. stated Mr. McVeigh in response to Mr. Lamont who again stated that on the Right of Way Leasing and regulations--that the legislature should not let go of any authority on regulations.

Regardless of what they say, the oil companies won't delay construction of the pipeline--they can't afford it - said Mr. Lamont in response to Mr. Malone.

What is really being said here is that he doesn't want to be a common carrier, the oil companies want to carry their own oil and to hell with everyone else said Mr. Lamont. In anser to Mr. Orsini: If a business is so affected with a public interest the state may impose very stringent regulations on it.

Ms. Chance - if the state retained final say over that corridor, would this have anything to do with the monopoly question?

It would someday, but not right now - it will always be easier for TAPS to expand than anyone else to build a new line. It is always easier to accumulate new lines than to build new lines. For a long time to come TAPS will be the only pipeline.

Mr. Lamont also stated that the government cannot enforce extensions at a loss to the company, but it can force an abandonment in the best interest of the public.

HB8 was discussed: What is the problem with title on a long term lease? Finance people don't give much credence to that. It can be revoked. Metlakatla is on leased land--even the pulp mill and they get loans--said Mr. Havelock.

Uplands are routinely sold by the state and there are reasons how people would return have very interest (?). Under this arrangement we can sell the land for 10 million. Isn't it still possible to dispose of this property on a minimum bid auction? asked Mr. Malone, Yes replied Mr. Havelock.

If the state set a minimum bid then they would not lose money on this, right? asked Mr. Malone--Mr. Havelock agreed.

The problem with auction bidding in general is that if a person has enough money he can amke a bundle. Mr. Havelock stated to Mr. Malone. I need this legislation when the division of lands has the power to dispose of these lands properly. said Mr. Malone.

In foreign lands where Exxon has pipelines do they have lease or title asked Ms. Chance. They would have something akin to a lease I would think replied Mr. Hurd. We can operate on a long term lease here very probably he went on to say. It's been suggested that it might be an advantage in the state having a long term lease to more effectively control under that language if a purchaser or shipper of oil has no storage area then that limits his ability to purchase oil. Has the state considered this in their consideration of long term leasing. You will solve this in your operating agreement. A storage area is set aside and if you leave your oil there too long you get fined. Industry has learned that ten days storage is fine and works best said Mr. Wacker. Is there a problem with the major producers in allowing other companies to store the oil? asked McVeigh. No.

The tanker operation is a separate organization said Mr. Wacker. There is no regulations on tankers so the price on them will be controlled by the well head price which we can regulate said Mr. Havelock.

The meeting was then recessed and reconvened at 3:30 p.m. by acting chairman, Ms. Banfield.

HB8 HB8 was gone over: page 2, line 3, page 3, line 18 - it goes in both places. Insert A was moved to be adopted...then the following was suddenly brought up and acted upon--page 1, line 13 after the word "notice" it should be reworded: "notice to each legislator". This was adopted no objections. Then the committee moved back to insert A: section 3850300, this must limit someone to 640 acres or whatever, suggested Art Peterson.--Right, agreet Ms. Banfield. It would be more direct to say the limitation in 3850300 doesn't apply replied Art Peterson. Otherwise it may suggest something else. Is there anything the matter with this asked Ms. Banfield. This was considered a good point. We could say at that point that that doesn't apply...on the surface it looks like it might be o.k. Art said. May we have a motion to adopt insert A with Art's language in the above places. No objections were heard--it was accepted.

Mr. McVeigh discussed the lease, sale questions of the uplands and stated that the committee seemed to be pretty well split on that question. Or there may be trans or in d_____clauses in the lease. That's our worry.

Transfer of title doesn't make any leeway for reversal, it's just fee simple - sale. A lease renegotiable for rental may bring in more to the state said Mr. Malone. I favor the lease approach myself he stated. Under what program would this land be taxed asked Ms. Banfield. If it were leased it would not be taxed? asked Ms. Banfield. Mr. McVeigh replied I don't know. There are taxes levied on a lease held interest stated Mr. Malone.

If they lease to a private interest for gain then this can be taxed said Mr. McVeigh. Ms. Chance then told of incidents refuting this idea. Maybe we could call revenue and find out if these lands can be taxed by either a municipality or the state said Mr. McVeigh.

Under the leasing agreement the lands would not be taxable, but improvements on it would be. This was what the Attorney General said-- A visitor spoke up and added. On the Right of Way the pipeline will be taxed said Millie Banfield...This word "Operational" in the margin means the amendment is optional...in answer to Mr. Malone. It was moved to adopt the amendment on page 4 said Mr. Orsini--it was so moved and passed.

The next one applies in the same place - page 2, line 12 Submerged Lands. Differences were discussed between tidelands, submerged lands, and shore lands.

Definitions were discussed, on the above categories of lands--as well as "land filled or to be filled" this was tossed about.

If you fill in on a tideland--it is still a tideland stated Ms. Banfield.

Leasing or selling uplands--if the land is leased is it taxed on roughly the same value as if it were sold asked Mrs. Banfield.

The term of the lease would determine that. If it were a long term lease it could be taxed with roughly the same value--replied Mr. Hyer from Kenai; he is the borough assessor.
What they pay and what it is assessed at may not be the same he continued. If it is leased it is less than fee ownership so that would be why the taxes may be less. The value of the lease would devaluate as time goes by, Hyer said. The taxes depent on the term of the lease, the improvements are taxed at full value. There are two methods of assessing land and this makes a big difference.

If we go the lease route then we have little control over the assessment of these lands and there may be tremendous flexibility--brought up Mrs. Beirne.

Yes replied Mr. Hyer. Perhaps the type of assessment could be appealed suggested Mr. Hyer.

A 55 yr. lease with option to renew for 55 years ought to give you taxes of 90-95% of full fee value. All the way through it refers to real and personal property in HB1 stated Mr. Hyer. Perhaps the method of assessment should be looked at by the legislature. Mr. Malone.

Pg. 2, line 12 - let's finish that suggested Ms. Banfield. There is a question as to what happens to shorelands if they are filled.

I move that the language be included in this bill said Mr. Malone. Is this a common practise to sell off tidelands and submerged lands for filling and development? asked Ms. Chance.

I think so replied Mr. Peterson.

Has anybody else been able to buy such lands? Ms. Chance

Yes, in this area. replied Ms. Banfield.

All in favor of the amendment-stated Ms. Banfield. It was voted down.

Do we want to take the committee substitute for HB8? Ms. Banfield.

I move we adopt the Resource Committee substitute for HB8. M. Malone

I object. Ms. Banfield. If we lease the lands then they return to the state--Mr. Malone.

With the lease we would get 1) reversion and 2) higher degree of control. said Mr. Malone.

If this bill is strictly lease, doesn't this preclude the oil company buying any of this land? Ms. Banfield.

Yes answered Mr. McVeigh. If we pass this does this mean the Attorney General could not sell this land? Mrs. Banfield.

If he does lease on a noncompetitive basis this does not prohibit sale.

Should be adopt committee substitute for HB8 Ms. Banfield asked. of Mr. Condon. When tidelands, submerged lands, or shore lands are filled in does this change their status? I don't know answered Mr. Condon.

Which do we recommend--HB8 or substitute for HB8? asked Ms. Banfield

(if there were some claim by the federal and state governments..)?

I move for the adoption of the committee substitute stated Ms. Banfield. It was adopted.

The committee amendments were added to the Resources committee substitute with unanimous consent.

It was recommended that it be replaced by Judiciary Committee Substitute for Resources Committee HB8

Approf 10/25/97

The House Judiciary met at 9:45, October 29, 1973; meeting called to order by chairman, Clem Tillion--all members were present.

It was asked whether on line 21, if "person" included municipality. Joe Orsini. Mr. Tillion answered no it does not.

Do we want to include it? Mr. Tillion asked. I move we insert it in the definitions section--municipalities--said Mr. Malone.

Ms. Banfield objected; discussion followed.
Mr. Orsini suggested that we wait until some local government wants to do it. Ms. Banfield said she wanted to wait--that this may bring up all sorts of inherent problems. Mr. Malone answered that there was some valid reason for including it. More discussion.

What does "certificate" mean asked Joe Orsini. Art Peterson gave his definition. Does a permit act as a certificate? In lease for the Right of Way--stated Millie. This certificate suggests what is to be done in the future; it may be better to use new language replied A. Peterson. "Would be inconsistent with" Malone asked. This would give way to federal law. Delete ICC and insert Federal Regulatory Agency" in insert A. M. Malone moved. This will avoid conflict, Mr. Peterson added.

This amendment leaves it up to the options of the state Mr.Malone said.

Section 30 change word "applied" to "notified", delete "granted" delete "for" and "the commissioner is granted" Mr. Orsini moved. I don't think A gets us out of litigation that way Mr. Havelock remarked.

Mr. Malone asked Mr. Havelock questions on lands and discussion followed.

In section 120 that lease has to be executed first--discussion.

If it becomes part of the lease then we have solved none of the litigation problems stated Mrs. Banfield. Question was called and the motion was carried.

Section 40 of insert A --Mr. Orsini wanted discussion on this. In 40 the commissioner has to act first, that is how it differs from section 30. Replied Mr. Havelock. Insert B: There is no longer an application under 30 stated Art Peterson.

Mr. Malone moved on the small language changes in section 70, and the changes were adopted. It was decided to keep insert B section 7, instead of repealing section 80 of original bill. Section 6 of HB3 was moved to be deleted. Mr. Orsini. Mrs. Banfield objected, whereupon Mr. Orsini withdrew his amendment. Insert B was accepted.

Mr. Peterson: The next change is put in line 10 and 11 on page 4.

Strike C out. A parenthetical comment here: Once a lease is issued, it will be difficult to change things. Leaving the lease date up to the commissioner was discussed. It is not possible to change the covenants until the lease is changed stated Ms. Banfield. Mr. Tillion recommended leaving this one alone..

The blank here is due to getting lunch for committee members.

To allow transference between member companies is something that should be added to the amendment. (Section 120 paragraph 7). I move we delete section 7 said Mr. Orsini. (no purchase option with all). There is no existing authority to condemn a pipeline Mr. Havelock replied to Mr. Malone. Question was called...discussion...If what we want is to be able to buy that 5% which is put in the first words of the amendment, what are we spending time on it now for stated Mrs. Banfield. discussion.

The motion was made to include after the word "disclose"- "to a person other than another owner of the pipeline." Mrs. Banfield objected, the motion died.

Limit this to 5%, with Mrs. Beirne's words. Percentage limited to 5%, Mrs. Banfield made the motion -- (State may not acquire more than 5% is what was worded by the committee). It was passed with a unanimous consent. Page 8 of the rough draft: next change is in paragraph 10...a deletion was agreed upon. Mr. Peterson went on through many changes. Discussion on section 10 followed. It was moved to retain all deleted language. question. It has so been reinstated.

The meeting was recessed until later that evening.

Meeting was called again at 6p.m. that evening--October 29.

Mr. Levy recommended deleting that language..this language would prohibit the extension of lines within the lease--he said this gives away something that you might not have to give away--Mr. Tillion explained that this is what Levy thought. Mr. Orsini made a motion to delete the language and the motion was passed.

Paragraph 11 of covenant section was discussed by Art Peterson, concerning strict liability. Do we include this in the covenant lease or put it somewhere else. Strict liability or a regular negligency standard Mr. Peterson asked. Is that language sufficient for strict liability asked Mr. Malone. No, answered Mr. McVeigh.

Is the language in "d" a good definition of strict liability? asked Mrs. Chance. Yes, but more should be added explained Mr. Peterson. Mr. Malone asked for the proper definition in legal terms of strict liability. Mr. Peterson tried to answer him-- Mr. Malone felt that _____ of fault would be good to add.

I move we incorporate section 11 and sections a,b,c, and d which would undergo changes of language and leave this in the covenant. Mr. Malone moved.

The motion was carried.

Page 10, insert d. Mr. Orsini moved we adopt insert D - this just allows other pipelines in that corridor explained Mr. Orsini. This makes them share the Right of Way. This corridor is restricted to a pipeline corridor and is wide enough for more pipelines to be built later--fifty feet are left on either side of the pipe.

insert d was accepted.

Page 13 next; transfer section. Art Peterson said parts to be deleted, and generally went over the section carefully. Beirne moved that deleted language be reinserted and the motion was unanimous.

3835150--Additional provision of lease. Levy asked that this be repealed; it would affect litigation. It was moved the committee amend 3835150, repeal b and c, leaving only 19. Unanimous consent passed this motion.

The language in 15 and 19 was discussed and it was moved that it be deleted however that motion did not pass.

Page 14, lines 4-5--Art Peterson went over his additions. Mr. Malone asked what party meant, and found that it did not mean person, it means party of the action. This was left until a later date.

Sections 320 and 630 were discussed. Delete B from section 17 this deletion was flagged. Page 14 was passed on with no objection.

At 7 p.m. Mr. Malone moved for adjournment and it was granted--

October 30, 1973
A short meeting was called to order at 10:24 by Chairman Tillion, all members were present. HB3 Right of Way was discussed.

HB3

Page 8, sections 8 & 9--delete Governor's recommendation on line 13 and leave in existing language. "Those reports that the state may" be struck out and the existing language put back.

Mr. Havelock said that it was just to tie it in with the regulatory act. It was moved and asked unanimous consent, Mrs. Banfield objected. Two members had to leave, so the meeting was recessed until later.

The meeting reconvened at 4:15 - HB3 was gone over. If section B was put back, would it be o.k. it was asked of Mr. Condon. He said that it would be fine. It was moved that B be delet-ed from repealed bill. Mr. Orsini so moved and it was decided that it would stay in. Mr McVeigh and Mrs. Banfield had a question-page 9, see addition on line 17--Mr. McVeigh wanted to know more about who exactly was liable. Mr. Tillion said that the employer was liable. Mr. Condon told Mrs. Banfield that other businesses were not liable like this. - the discussion satisfied Mr. McVeigh.

Mr. Peterson went over page 9, section D. I move we preserve the exemptions as required by law. Mr. Peterson read over the exemptions to liability. A motion was not to exempt the one concerning third party--and this was passed. The Act of God exemption was discussed. Mr. Malone asked unanimous consent on this one and it was passed. We leave only 1A. Page 14, Mr. Orsini said he would like to redo the whole thing. Section 230, carrier is referred to within the act so we need to leave that in. Commissioner means commissioner of natural resources--that's o.k. Mr. Orsini commented, then went on to go over all sections he felt should be left in. Leave in the word "lease", that definition is needed Mr. Orsini thought--so that was retained.

Section 14 is included in and that is good, 15 should be in, 16 is in, 17 should be in, 18 needs to be corrected a bit, but then it is in--19 should stay in. The conflict on 12 would be harmful said Mr. Peterson. Leave it in and resolve it later suggested Mr. Orsini. He then moved the amendments have unanimous consent and it was so passed.

Page 16 do not repeal it--and that obtained unanimous consent.

HB3, section A, abandonment. The original language provides for only simple notification and what I want is that it could not be abandoned except in accordance with the law. Mr. Malone wanted to know what a field gathering line was? But we have no one now and it was decided to go on and add it later. Mr. Orsini wanted to go over the amendments so committee went over them--amendment page 12 was turned down. The bill was closed, by vote. Mr. Peterson was left to rewrite it as the committee so voted, and the committee report is to be signed October 31.

1974

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HOUSE JUDICIARY COMMITTEE

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CHAIRMAN: REPRESENTATIVE CLEM TILLION

MEMBERS: REPRESENTATIVE MILDRED BANFIELD, REPRESENTATIVE HELEN BEIRNE, REPRESENTATIVE GENIE CHANCE, REPRESENTATIVE HUGH MALONE, REPRESENTATIVE RICHARD MCVEIGH, AND REPRESENTATIVE JOSEPH ORSINI.

LEGAL COUNSEL: Mr. Randolph Berry

STAFF ASSISTANT: Merle A. Mason (Mrs.)

SECRETARY: Sybil H. Davis

Eighth Alaska State Legislature
Second Session - January 21, 1974 -
April 26, 1974

HOUSE JUDICIARY COMMITTEE

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HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, January 21, 1974

The first meeting of the committee for the second session of the Eighth Alaska Legislature was called to order by Chairman Tillion at 3:05 p.m. in Room 104 of the Assembly Apartments. Present were: Tillion, Orsini, Chance, Malone, Banfield and McVeigh.

A review of bills in committee was conducted. A committee policy was adopted regarding action to be taken on subjects that have been considered in public hearing. No final action will be taken on measures on the same day as the public hearing.

Meeting adjourned at 4:05 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, January 23, 1974

Chairman Tillion called the meeting to order at 3:24 p.m. in Room 104, Assembly Apartments. Present were Tillion, Malone, Chance, McVeigh and Beirne. Staff counsel, Randy Barry was also present.

Comp. Neg. — Tillion assigned HB-269 - Comparative Negligence - to Orsini. Mr. McVeigh will assist in the research on this bill. HB 26

Safety Glazing Labels — The chairman said that he would speak with Mrs. Banfield about HB-205 - Safety glazing labels and materials. She will find out about the objections Don Abel had on this measure. After that time, the bill will be placed on the agenda. HB 20

New Owner/ Tax rolls — HB-281 - Assessment roll/real property/new owner. The secretary was asked to notify someone from the Borough assessment office to either send written testimony or to appear in person to show why this measure would be helpful. Mr. Robert Howe will be at our meeting on Monday, January 28, at 3:00 p.m. HB 28

Invest. retirement money — HB-253 - Investment of surplus retirement fund money. The committee would like to hear from the administration on why this measure is necessary. The secretary will call Mr. Eppenbach and ask him to come to our meeting on January 28, at 3:00 p.m. HB 25

MV Oper. Records — HB-258 - Furnishing motor vehicle operating records. Mr. Tillion will see Mr. Huber about his bill and if he still wants it, it will be placed on the agenda. HB 25

Arch. Eng. & Land Sur. — SB-67 - Architecture, engineering and land surveying. This bill has been assigned to Mr. Malone. SB 67

Licensing Auto Shops — HB-373 - Licensing of automotive repair shops. The committee wanted to look at the governor's bill on this subject and see if it covers this same problem. If so, they will probably consider the governor's bill. HB 37

Land Ownership/ nonres. aliens — HB-335 - Ownership of real property by nonresident aliens. McVeigh asked Randy if he has any problems with this bill. Randy said that the Supreme Court started off in one direction during World Wars I and II but since than has made the shift in the other direction. The trend is that you cannot restrict ownership of land to aliens. Mrs. Chance mentioned that she would like to have Canada's laws researched. Mr. Tillion said that aliens there were allowed to own a lot but were required to develop the lot by adding improvements worth a certain sum of money. Randy will check into this. HB 33

Civil Liab/Natl Guard

SB-117 - Temporary suspension of civil liabilities of National Guardsmen called into active duty for the State. Mr. Tillion will contact Mr. Harris on his senate bill before we take any further action on this.

SB 11

The next committee meeting will be held January 28, Monday.

Meeting adjourned at 3:55 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, January 29, 1974

Chairman Tillion called the meeting to order at 3:10 p.m. in Room 104, Assembly Apartments. Present were: Chance, Tillion and McVeigh.

Invest. Retirement monies

HB 2

Mr. Eppenbach testified in favor of House Bill No. 253 - Investment of surplus retirement fund money. He agreed with the CS put out by the State Affairs Committee last year but had some additions he would like to have incorporated in the bill. He had some suggested language that he had distributed to committee members. He said that if this bill were passed, as the committee substitute will show, that this would give additional economic sources of credit in this state which will be needed during pipeline construction.

Chance asked if the retirement fund was to be considered as a trust fund. Mr. Eppenbach gave the example of Hawaii. They thought they could make the fund and then use the money to meet certain obligations. He said that it was his opinion that the trust integrity will come first and foremost if this bill is passed. It is also reasonable that we get maximum returns on this money by buying mortgages. Common stocks aren't good. Alaskan mortgages are high yield. He said what he really wanted was more purchasing power for the state. (Randy Barry arrived 3:15) Mr. Eppenbach said we didn't have enough money in the general fund so we want to use this method. Tillion asked if there was any opposition to this bill. Mr. Eppenbach said he didn't know of any. (Malone arrived 3:16)

Mr. Eppenbach said they wanted to make some changes in the State Affairs CS with respect to the retirement fund with the option to purchase federal veterans' mortgages. During deliberations in the State Affairs Committee and research by the Department of Revenue showed it would be a protected security risk to purchase conventional loans. He said the state now has a full-time investment officer. He said they originally wanted this to be limited to Alaska banks, but during the last nine months their views of this have changed. Now requiring the 25 per cent limit is only reasonable and makes sense if it is for two years. A two-year holding period seems sufficient. Beyond that they saw additional need for having commercial purchasing power. They recognized that the risks would be greater. They want banks to hold 25 per cent of the commercial paper.

Mr. Eppenbach then explained the two new federal programs. He felt the state should take advantage of these. They are FHA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972; and loans made under the Federal Ship Financing Act of 1972.

Chance asked if this would need an effective date clause. This could be added. Malone felt that if these changes were needed then they should be incorporated into the bill in this committee.

Mr. Eppenbach went through the additions he had prepared. A copy of these changes will be in the file. He said there had been criticism for not putting more money from the general fund into this, but they do have the responsibility of generating cash. We didn't think that the commissioner had this power and we want you to commit it to us. McVeigh asked for an example of an institution that could insure these mortgages. He said Magic Insurance Company was one. McVeigh asked what "other security" meant. Mr. Eppenbach said this means anything to be used for security. The department has to analyze anything they accept as security. They will have to make this judgment.

Mr. Eppenbach noted that the additional change that he requested before when this bill was in State Affairs is under (12). The additional language is: ..."for a minimum of two years."

When talking about these loans you must remember that this means new loans that are processed after the effective date of this act. McVeigh was asking questions about this aspect of the bill because of what happened after the earthquake. The SBA had a lot of bad paper dumped on it at that time. He wanted to make sure that could not happen with this piece of legislation. Chance brought out that it could not be over 90 days at the bank. This would prevent being able to purchase delinquent loans. Mr. Eppenbach noted that it is possible to make a bad loan because there is some judgment required to make these purchases. Chance noted that there was an additional safeguard which showed that if the aggregate from any one institution becomes delinquent more than 1/2 of 1 per cent then the department shall stop purchasing from them. Mr. Eppenbach felt that the State should have the right to have a rate of return. There will be a risk in purchasing conventional mortgages, but we will take that risk. He suggested that you may even end up with the collateral and have to sell the real estate. This is really only a risk of delay. He said there is a risk also with federally insured programs--it may take you up to six months to get a refund.

McVeigh asked if we would get more interest from money used out of these trust funds than what would accumulate for any losses. Mr. Eppenbach said they didn't figure it that way. They put this into the rate of calculation when they originally establish the loan. They don't want to have to handle loans at a set interest all the time. He said this manner of holding back say 2 per cent to compensate for losses is a cumbersome way for reserve accounting.

Malone asked about the practical effect of these changes. Is the problem unavailability of financing in the State of Alaska? What effect does this have on the retirement fund? Mr. Eppenbach said there was 80 million dollars in each of the trust funds. They are now invested at 10-15 per cent in common stock, 30 per cent in government, 20 per cent in mortgages and corporate bonds. Corporate bonds are liquid and marketable. He said we have about 40 million in purchasing power in the fund and have an additional growth potential of 40 million. Mr. Eppenbach said he did not want to leave the impression that he planned on having the whole sum invested. The intent is to maintain a balance.

Malone asked if the agencies that the State did business with at this time were Alaska agencies. He said no and gave an example of one being Washington, D. C. He said that under the different kinds of purchasing power the new plan would give them the investments would be new in state investments and these would also be short term deposits in Alaskan banks.

Malone felt that we could take (13) out and forget about purchasing commercial real estate loans. Tillion didn't know whether this would be worthwhile. Chance agreed with Tillion and felt that this should be left open.

Chance moved and asked unanimous consent that a committee substitute be drafted to include the new language submitted by Mr. Eppenbach added to the State Affairs CS. There being no objection, it was so ordered. The chairman gave all the necessary information to Randy to have it redrafted. Final action will be taken on this bill after we receive the completed CS.

Mr. Eppenbach will bring helpful backup material for committee members for explaining this on the Floor.

New Owner/ Tax rolls

HB 281 - Annual Assessment Roll/new owner. Chance moved and asked unanimous that this bill go out with a "do pass" recommendation. All signed "do pass".

HB 2

Meeting adjourned at 4:03 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, January 30, 1974

The meeting was called to order by Chairman Tillion at 3:25 p.m. in Room 104 of the Assembly Apartments. Present were: Tillion, Malone, Randy Barry, Chance, and McVeigh.

Guide Lic. Con. Bd.

HB 42

The first bill for consideration was HB 427 - Guide Licensing and Control Board. Commissioner Brooks testified on this measure. He said he would like to see the board put back under the administration and control of Fish and Game as in the past. He said that he would be ex-officio secretary and the governor would have veto powers on action taken by the board. He stated that this bill was an amendment to an act that was legislated last year which created a Guide Licensing and Control Board which was placed in the Department of Commerce. He said the reason this law was enacted was the general feeling of frustration with the way that professional guides were conducting themselves in Alaska.. It was felt that part of the cause of this was the fact that the Board of Fish and Game wasn't able to attend properly to its responsibilities which included administering the guide program. He said he felt that the problem was much greater than that. The true facts were that a great many guides found it highly profitable to violate laws and regulations and were extremely competent in carrying out their illegal activities. It was difficult to make cases against them. Alaska was getting a bad reputation nationally because of the way that many guides, particularly aircraft operators were behaving. The problem wasn't so much with the Board of Fish and Game which made the regulations and would hold hearings in cases where illegal activities of guides were discovered and charges filed, cases brought before the board with the authority to suspend or revoke licenses. Really the administration of the guide program was carried out primarily by the Department of Fish and Game. Our staff did all the examining, record keeping, protection work, making cases that would be brought before the board to be heard. The board's role was primarily that of sitting in judgment of those accused of violating the regulations. When the guide licensing and control board was created, the authority formerly resided with Fish and Game was given to the new board and placed under the Department of Commerce. This did not seem to solve any of the problems. The board was deprived of staff. Nothing has been accomplished. It held numerous hearings, but no guides were examined during this year. There has been little noticeable change in the activities of guides. He felt we had slid backwards. The board doesn't even have a staff to develop information which casts light on just what is going on. He recognized the efforts of Representative Specking in the preparation of this bill, but felt there was difficulty because the board was left in the Department of Commerce. This is a most unusual board in some respects.

As compared to the Board of Fish and Game this board is not totally autonomous. They don't really have the final say.

If the Commissioner of Fish and Game disagrees with something in a rule or regulation of the board, then a public hearing can be held, and if the board and the commissioner cannot resolve the problem then the matter is taken to the governor for final decision. He felt that this is a proper method of procedure in keeping with what many of us feel is the most desirable form of government now. He noted that the Guide Licensing and Control Board has no one to critique what it does. It can set up new regulations,no matter how ridiculous, they will stand. There is always a risk where a professional board is dominated by people with an economic interest in it. They could formulate regulations that aren't in the best public interest. If the Department of Fish and Game has to do all the work Commissioner Brooks feels that the board should come under the Department of Fish and Game. (Orsini arrived 3:34) He said that if the bill were amended he would like to be designated as the ex-officio secretary of the board in a similar manner as he does for the Board of Fish and Game. He felt this would allow his department to provide properly for the activities for the Guide Licensing and Control Board. They could exercise some degree of influence in making sure that all of the information that could be of value to the board would be available to them. He didn't feel this would be done if left under the Department of Commerce. We can provide budgetary and administrative services for the board, but that isn't what they want. They want advice from our biologists and conservationists. This bill says that Fish and Game must respond to every request from Commerce on GLCB matters. He said he didn't know what workload their requests could amount to. This could add a new burden on us that we are not prepared to field unless we are working closely with the board all the time and can offer some guidance and assistance. We have examined every guide in Alaska, promulgated every regulation on the books now, held administrative hearings in revoking guides licenses--we are familiar with the workings. He felt the best was to bring it back under the control of the Department of Fish and Game.

Malone reviewed Commissioner Brooks recommendations. The Commissioner wanted the board to come under the Department of Fish and Game. He was to be designated as ex-officio secretary of the board. Regulations were to be promulgated by the Board of Fish and Game and the governor could exercise power of veto on such matters. The Commissioner agreed with his comments.

McVeigh asked if this bill had been through the Natural Resources Committee. Tillion said that it had a further referral to Finance Committee only. McVeigh then made referrence to the heavy penalties. If there is a guide engaging in guiding activitieswhile his license is suspended or revoked, then he is guilty of a felony. He felt this was a severe punishment. There is also provision for a fine of more more than $5,000 or both. He asked the Commissioner if he didn't feel this was excessive. Mr. Brooks

Revenue. Tillion noted that all licensing boards are in the Department of Commerce. That's why it was felt Commerce could best handle this, too. Even the Governor has put the Fish and Game enforcement division in the State Police--there is an overlap there. Chance felt this was a little different. She said there was no way for them to know at Fish and Game how many manhours they would have to spend on this activity. Specking agreed that he felt there were some technical problems that had to be worked out. He felt Mr. Jensen could describe some of the problems experienced in the past year. HB 2

Mr. Jensen reported that the board had just finished hearings on proposed regulations. He said he was surprised at the heavy workload that developed when they started applying the statute that was passed last year. He had several points he wanted to talk about. He said that they are supposed to give examinations to all prospective guides. This involves making up a 100-question written test. It has to be well thought out. Then you are required to have a background check on the people taking the test. They have to meet certain requirements before they can be qualified to take the test. We have to give the tests in two or three different places in Alaska. The board sets the time --it used to be twice a year. There is a lot of decision-making involved.

There are many times that we have to contact the F&G Department. Sometimes our secretary would do this. We only have one secretary that has been assigned to our work load. We also have one attorney in Anchorage that has other jobs to help us with the legal problems. The coordination takes someone at the head of it. Mr. Jensen said that he has spent a lot of time seeing that these various things are done.

They also held hearings on new regulations. There is a work load for this, too. The times have to be published and arrangements well thought out. Then you have to send out hearing notice dates to the public. You have to find places to hold hearings and give examinations in the several towns. All of this work is very time consuming. Then, too, when you are meeting with the attorney and you don't have somebody at the head of it working with him that understands what is transpiring--it is hard to separate Fish and Game and guiding. Many times they needed to talk to someone from Fish and Game. He said they could control the action of guides and their areas in which they hunt, but do not have control over the taking of game. We did pass 20 regulations that were word changes so the new Act could be implemented. He felt it would have been advantageous to have the Department of Fish and Game man there showing us how they would interpret these new regulations. The only other way would be for the Legislature to fund an account and set up a director to see that things are in order. This is especially as we go into land withdrawals which will make shifts in guide areas and the taking of game. When you consider that you have 1,000 people that are interested and

and they are writing and asking questions, you need someone to do that work. Either this board has to go back under a department that talks the same language or they should set up a director's post with a man qualified to do the work. Our secretary is swamped with work. This is different than other professional boards from the standpoint of only issueing a license.

The GLCB also has to sit in on hearings as a jury on violations. We have been working on 15 cases, so we have a workload that is not easy to discharge. I do believe that the board is off to a good start.

There is one issue on which we have worked hard. Public Safety worked with us. We have been talking to Public Safety and Revenue as to what the board could do to help their departments in the matter of regulations. We have been working on a plan for checking hunters. They have to check in with Public Safety and after the hunt they have to file a complete report of activity. This would include what they got, where they got it, etc. This way we will know immediately if we are having violations in the field. Our attorney advised that we were on thin ice since we only had authority over guiding matters and not in the game department. We feel information such as this could be computerized.

Orsini wanted to know why they had to have a background check on applicants for a guide license before they could take the examination. Maybe they would fail anyway. Why not let them take the exam and then make a background check. Mr. Jensen said the same procedure is used for doctor's examinations. You have to be an intern before you can take the exam. The guides with which these applicants work can help us to know how qualified each applicant may be. Tillion said if you just let anyone come in and take the test, a person would come in and take the examination and then he briefs the next person about the questions. Mr. Jensen noted that there was both a written and oral examination. They must pass both exams satisfactorily. Malone felt it was standard procedure for most boards to get some idea of the person's background before you allow them to sit for an examination.

Malone said he didn't see any reason for them to change back to the Department of Fish and Game, but did see some justification in giving them monies so they could provide budgetary and administrative planning to support the GLCB because they will be working together.

Mr. Jensen felt that if they were under the F&G department that the tests coming up in March would be much easier to administer because some of their people could be used to do the work in their particular areas. We could delegate the powers to the department so they could give the test. Now it is a problem. We either have to have someone responsible and not just the secretary, or somebody in the department of fish and game that we can delegate these responsibilities.

Malone agreed and felt that it would be simpler if all of these activities were in one department. Mr. Jensen felt the fish and game would be the best department because they talked the same language and they could have staff help. Malone asked what happened if someone disagreed with the board about a regulation. What procedure is used to appeal? Mr. Jensen said the board was under APA. McVeigh outlined the procedure under the APA. First a complaint would be filed with the board. The board director would notify the governor that this complaint was filed. The governor acting through the AG appoints a hearing officer. Normally this is a lawyer, but sometimes it is a layman. After the case, a decision is written. That decision goes back to the board, which they accept or reject. That exhausts administrative remedies. If there is still no agreement, the case is then ready for appeal to the superior court. If necessary, it will continue to the Supreme Court.

Mr. Specking wanted to make it clear to Mr. Jensen that the Commissioner wanted the board to come back under complete control of the Department of Fish and Game. We would then be where we were before the board was formed. Mrs. Chance felt that you could put them back under Fish and Game but not giving them full control, depending up how you wrote the bill. Chance felt their problems were the same as for other boards, because Department of Commerce might have one typist to do some typing, but they were always behind. Mr. Specking questioned whether the board would be willing to accept the situation inside the department that give F&G a measure of control over the board. He felt it would operate better without the overriding authority of this department. Mr. Jensen noted that they are only handling people, mainly guides, who are writing in about matters pertaining to game. He felt the department could at least answer their questions. Also, they have people dispatched throughout the state. Dr. Beirne felt that one of the major problems was that the GLCB didn't have anyone to do the work. She noted that Mr. Jensen could spend his entire time in an unpaid position. She felt a budgeted position would be of benefit to the board. She felt that it should stay in the Department of Commerce, and then have a director of the board situated under that department. Malone agreed, and didn't see any reason to move the department completely back under F&G. We just need to appropriate money so both Commerce and F&G can give assistance to the board.

Mr. Jensen noted that the APA calls for a lot of different things and that we are in a time period where there are a lot of changes taking place in Alaska. There is a backlog of cases. Orsini asked about the income compared to cost of operation for the board. Mr. Jensen said they didn't appropriate any money last year. He said that two good members resigned when they saw the work load. Orsini said he had seen where they budget far less than the fees that are taken in making operation very difficult. Mr. Specking said that the first supplemental appropriation that came out of Finance this year was for this board.

HB 42

Malone said he didn't see any problem by leaving it in the two departments. Chance suggested that we leave it in Commerce and fund for some Fish and Game people to work for the board. Chance said this way you would fund in both departments to cover the work load. McVeigh agreed with this and said he couldn't see why Finance couldn't give them enough money so they can perform their functions. Then they can do their job right. Commerce takes in a lot more money than they are spending.

Mr. Specking felt that their problems would be solved if they stayed in the Department of Commerce and the board given a full-time director to do the work. Chance said that a board is not supposed to be doing the administrative duties. It needs to be staffed by professionals in the field. Beirne said you would have to have that written in to the bill. Orsini said if we were going to take this out of the Commerce Department then they should be heard. Mr. Jensen wondered if it would be possible to rewrite this bill and have an executive secretary that would be in the Department of Commerce. They would provide what other staff we might need. McVeigh felt if we did this, they would require justification for an executive secretary position. Mr. Specking realized that the board has its problems. He noted that Chance and Beirne had mentioned other boards who had their problems. He felt that maybe it was the system. He didn't really know the answer. Mr. Specking recommended that the committee hold this legislation to see if there couldn't be something to solve this problem. Tillion said he would hold this legislation until the sponsor asked for it to be considered.

The chairman said he had scheduled hearings on all law and order bills in this committee for Wednesday and Thursday, February 13 and 14, 1974. All interested parties will be notified.

HB 45

Firearms during felony

HB 452 - Use of firearms during commission of a felony. Mr. Hackney appeared before the committee in favor of his bill. He said there is a general feeling being generated around the state today that something must be done about the use of guns while committing crimes. Maybe even gun control. He said many people worried about guns in the possession of ordinary citizens. He said he didn't worry about these people but he didn't want them to engage in unlawful practices with them. He noted some recent examples from the newspaper. He then noted that guns had become a menace to thosethat we hire to keep the peace. They are daily faced with violence with guns. It appears that the old-time standard of vigilante groups are forming.

McVeigh said that he saw a problem with (a), line 11, page 1. What does "possession" mean? He asked if you had a gun in your home and you committed a felony, would that be considered possession? Malone said that he had a different problem with it. This would cover all types of felonies. In certain cases a person might be temporarily insane, say in the eternal triangle, or in the grip of human passion. The

person may be a pillar of the community. This is a serious penalty under the circumstances if at that time a felony were committed. Tillion noted that this was already law. Malone said that he was concerned even under existing law about crime for profit. He suggested that maybe we could define more closely which felonies we are talking about.

Hackney said his bill would increase the penalties. In fact, it would double them. McVeigh noted that maybe those that handled criminal proceedings had some rationale for not going to this type of sentencing. Hackney said that this bill would take away the discretion from the judge. It would be mandatory. McVeigh asked if we could have one of the judges to come over and ask them why this section of law is not being used.

Release on Parole

HB 51

Mention was made of HB 511 - Release on Parole - but committee members felt it would be beneficial to get the judges to testify on all of these bills. Hackney asked if we would bring in some police officers on these measures, too. Tillion said he would set up a schedule to hear these bills within the next week to ten days. Beirne asked to have Corrections, Public Safety to also be represented on this legislation. Malone said that unless we did something about enforcement, we wouldn't be getting very far. Chance noted another problem--lack of follow through between the agencies. Tillion also felt there should be a memo to Finance explaining what would be needed to implement a workable program.

Meeting adjourned at 5:20 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, January 31, 1974

The meeting was called to order by Chairman Tillion at 3:10 p.m. in Room 104 of the Assembly Apartments. Present were: Orsini, Tillion, Malone, Chance, and Barry.

Law and Order

The chairman announced that February 13 and 14 had been the dates set for public hearings on all law and order legislation in our committee. He said he would include all new bills that may come in and also felt that the governor's bill should be included.

Minor in need of treatment

SB 32a

Announcement was also made on public hearing date for Senate Bill 32am - Minor in need of treatment. This was set for Thursday, February 21, 1974.

Invest. Retirement monies

HB 253

Malone asked about HB-253 - Use of retirement fund monies. He wanted to know if there was an effective date clause added. Tillion said there hadn't, but if no one objected it could be added. There was no objection. Malone felt it was necessary because of short construction seasons in Alaska. This way it could have an immediate effective date.

Prostition

HB 31

Mr. Tillion reported that there was work being done on the prostitution bill. This will make the decision a local option, but will remain illegal as far as the state is concerned.

Penalties Comm. Fish. Violations

HB 527

HB 527 - Penalties for commercial fishing violations. Tillion said that fishing violation legislation is aimed at small set-net violations. This legislation is aimed at king crab violations. Sometimes they fine them, but they don't take the crab away from the violators. Orsini objected because he felt it was difficult to enforce these things. Tillion said there were some means for enforcement. He said they could catch them at the cannery where they are unloading. If the penalty is low enough, it possibly could be beneficial to take the risk.

Malone asked for an explanation of section 2. This related to the punishment in relation to the catch on board and up to $10,000 fine. Tillion felt this meant more serious violations than not painting your name on your buoys. Orsini wasn't sure that the judges could do this. Tillion said it was felt that it was necessary to make sure that the catch could be confiscated. The courts weren't sure they could do this and that's why this legislation. He noted that confiscation would take place only after conviction. Orsini asked about the fines going to particular agencies. Tillion said that wouldn't necessarily work. He felt this was a reasonable bill. Malone moved and asked unanimous consent that we pass out this bill with a "do pass" recommendation. There was no objection. All present signed "do Pass".

Fire Code Group Homes

HCR 3 - Fire code requirements for group homes - was the next item for discussion. Mrs. Chance said that at the present time fire code requirements were issued for group homes in the same category as for institutions and they were too severe. Last year we passed the bill for group homes. The difficulty lies in the fact that the fire codes have not changed and there is no category to cover such group homes. This involves a great expense for the group home owner to meet the institution firecode. Malone wanted to know what it meant when the word "stringent" was used. She said that the regulations were too demanding for such a home since they usually were made from large houses. She asked what homes have--say, for instance--fire escapes from every bedroom window, sprinkler systems, smoke detectors, etc. Some of these things are necessary, but she didn't feel that all of them were. She said that what they were asking was that the fire marshal should create a classification for group homes. This would necessarily be stricter than for a private home. Orsini moved that this resolution be given a "Do Pass" recommendation. All present signed "Do Pass". HCR 3

Multi-Purpose Senior Centers

SB-126 Multi-purpose senior centers. (Banfield arrived 3:40) Malone asked about non-profit corporation as shown on page 2, line 28. Randy didn't think there was any problem because normally there are restrictions on the property when you change the use. Orsini asked about what happens when land values rise. Maybe they could then sell the land to themselves and realize a large profit. It could be that they held the land for 10 years in the non-profit corporation. Mrs. Banfield said that it was very difficult to try and dissolve a non-profit arrangement. You have to follow a set pattern of procedure. SB 12

Malone then asked about leaving the age limit in the bill. Mrs. Banfield said this did cause problems and gave the example of a senior citizen being the proper age but his wife being a bit under the stated age. Tillion didn't think we should amend the age. Malone said he would like to hear from the sponsor as to why this is necessary. Mr. Groh will be invited to attend our meeting tomorrow before taking final action on SB-126.

Use of Computer Tech.

SJR-33 - Use of computer technology. Orsini moved and asked for unanimous consent to sign out SJR-33 with a "Do Pass" recommendation. There was no objection. All present signed "Do Pass". SJR 33

Disorderly Conduct

HB-391 - Disorderly Conduct - will be included in the public hearings on all law and order bills. (McVeigh arrived 4:03) Malone moved to hold HB-392 in committee until requested by the sponsor. HB 391

Ownership land/non-resident aliens

HB 335 - Ownership of lands by nonresident aliens. It was felt that this was a bill that should be considered. Randy is compiling information on this matter. He will have a H. 335

HB 335

memo prepared for the committee. McVeigh felt this was a very heavy legal issue. Randy will check with Av Gross on the case he mentioned recently. Malone wanted to know why this was so important. Tillion said that the handling of aliens was a federally preempted area. McVeigh said that the basic law was that you could not restrict alienation of property. This was to break up the estates in England. At that time nobody could get possession of the land. It remained in the hands of large landowners. It only follows, then, that you cannot limit a person's being able to dispose of his land to whomever he may choose. There is a case in the Supreme Court on this subject at the present time. Randy disagreed saying that this one deals with licensing a real estate salesman. Randy explained about the cases he had researched so far, some going back to the 1800's. Further discussion will be held on this measure when the facts have been gathered.

Chance moved to adjourn the meeting at 4:12 p.m. There was no objection, so the meeting adjourned.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, February 1, 1974

Chairman Tillion called the meeting to order at 3:05 p.m. in room 104, Assembly Apartments. Present were Tillion, Beirne, Malone, Chance, and McVeigh.

Permits for use of Armed Guards

The Chairman stated that he would like to take up HB462--Permits for the Use of Armed Guards--which changes the notification to the Commissioner of Public Safety and strikes notifying the Governor. Chance moved and asked unanimous consent to pass this bill out of committee with a do pass recommendation. It was signed unanimously do pass. HB 462

McVeigh requested that when we are the committee of last referral to have the bills assigned for someone to carry from the floor. He also wanted to have a committee report. This was agreeable to committee members.

Invest. Retirement Monies

HB253--Investment of Surplus Retirement Fund Money--Mr. Richard Alexander, from the Governor's office brought a letter supporting the changes made in our committee substitute to this bill. HB 253

Fire Code Require.

HCR3--Fire Code Requirements for Group Homes--was assigned to Mrs. Chance to carry on the floor. HCR 3

Comm. Fish. Penalties

HB527--Penalties for Commercial Fishing Violations--will be carried by Mr. Tillion. HB 527

CSHB253--was assigned to Mr. Malone to carry on the floor. He asked the intention of the committee with respect to the effective date clause. There was no objection to adding an immediate as the effective date. CSHB25

Fifth Jud. Dis.

HB411--Establishing a Fifth District of the Superior Court--Mrs. Chance will talk with the court administrators to get what information she can. Mr. Tillion noted that last year they didn't want this to be tied into their bill. Mrs. Chance was assigned to investigate HB411. HB 411

Invest. Retirement Monies

HB253--Investment of Surplus Retirement Fund Money--Dr. Beirne asked about the federal VA loan --she wanted to know the relationship that had with the state veterans--Mr. Alexander said it had nothing to do with this. She then asked if the teachers would have anything to say about how their money is handled. He said they met together several times a year and asked for suggestions. Chance noted that in some states they say that this has caused problems--the asking for suggestions. Mr. Alexander said this was because the state has a large fund and we have a lot of contacts that would not be available if each group invested its own monies. Mrs. Beirne said the reason she asked was that she had some information from the Federation of Teachers as to how investments should be handled. Mr. Malone moved and asked unanimous consent to report out CSHB253 with a do pass recommendation. There was no objection and it was so signed. HB 253

Mr. Berry was instructed to prepare a committee report showing the differences between the original bill, State Affairs CS, and Judiciary CS. (Orsini arrived 3:28)

Pari-Mutuel Betting

HB23-Pari-Mutuel Betting--The Chairman said the thing that killed this bill last year was the dog mushing that was added. There didn't seem to be much opposition about horse racing. The Fair Association wanted it so they could have prizes at that fair. Orsini moved to table the bill. Chance felt that we should re-do the whole bill, and allow betting for horse racing only during the state fair. Any money derived would go back into the fair. McVeigh agreed with Chance. It seemed to him that the fair could use more money even though it received some appropriations from the state. Orsini said that the bill didn't say anything about fairs. Dr. Beirne showed him the place where it mentioned state fairs. Tillion specified that he wanted it only during the actual days that the fair would be open to the public. He said this would apply only to those who are members of the state fair association. Orsini said he recalled consideration of off track betting, but that we would have policing problems. HB 23

Senator Groh was present so HB23 was left and discussion of SB126 began.

Multi-Purpose Senior Center

SB126 -- Multi-Purpose Senior Center--Sen. Groh thanked the committee for letting him explain his bill. He said this plan was originally forwarded to him by an elderly citizen group in Anchorage. Since there is money available for these centers this legislation defines the necessity for them. In discussing this further, it seemed necessary to have this in enabling legislation. This authorizes the state to lease property for these centers. He said there are substantial federal monies available and if the private, non-profit corporations were formed then that federal money is available and could be used to get some centers going. Malone felt that under present law, SB 12

Multi-Purpose Senior Center

this could be done now, but that if we needed this to meet federal requirements, he felt it should be passed. Sen. Groh stated that it was a requirement. Sen. Groh said that there are some questions as to whether municipalities could lease land for such centers without this bill. Mrs. Chance said there would be some loss to local governments because such property would be taken off the tax rolls, and they would want to be reimbursed for the loss in revenues. Mr. Orsini asked if an organization using some noble purpose to mask their activities might use this as a front for more lucrative activities. Answered Sen. Groh: The controls were sufficient in the state to prevent this, but there was a potential for abuse. He felt that the local communities could handle the problem. SB 126

Chance asked if there would be any objection to adding "housing". Groh thought it possibly would be helpful. He really only wants to make the senior center alone exempt on the tax issue though. Beirne moved that this bill be moved out of the committee do pass and it was unanimously signed out that way.

Dr. Beirne is to carry SB126 on to the floor.

Pari-Mutuel Betting

HB23--The Chairman asked Mr. Orsini if this was for horses only and only during the annual fair, if it would be agreeable to him. Orsini withdrew his tabling motion. Malone moved and asked to have a CS drawn up. There was no objection. Randy will prepare the CS and bring it back to the committee before signing. McVeigh noted that we would have to tie down the funds or the earnings from the horse racing showing that they were for the betterment of the fair itself. H. 23

Meeting adjourned at 4:19 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, February 4, 1974

The meeting was called to order by the chairman in Room 104 of the Assembly Apartments at 3:38 p.m. Present were McVeigh, Malone, Chance, Orsini, Tillion and Berry.

Fifth Jud. Dis.

HB 411

The first item for discussion was HB 411 - Establishing a fifth district of the superior court. The sponsor, Rep. Guy has requested that we hold a public hearing on this bill. Chance said there was a problem with the districts and that now they are in the Fairbanks district while airlines take their traffic through Anchorage. It is more convenient to get transportation from their district to Anchorage rather than to Fairbanks. McVeigh felt we had taken care of this last year and this bill called for a completely new fifth district for the Superior Court. The realignment had already been approved. It was decided to get more information from Mr. Guy. Tillion asked if we should hold a hearing and Malone felt that we should. He felt that the Supreme Court should say where their districts would be and schedule their judges accordingly. He wondered why this had to be handled by statute. He felt this could be accomplished by administrative regulation. Tillion noted that this is by law a legislative matter. The hearing date was set for Friday, February 15, 1974. The secretary will notify Mr. Guy of the hearing date.

Safety Glazing Labels

HB 205

HB 205 - Safety glazing labels and materials - has had a second Judiciary Committee Substitute prepared. Orsini said that he had a problem with the information on Page 3, Line 14. This mentions 4 feet from the door--would this in any way mean a window? Chance assured him this would not be the case. Tillion noted the changes that had been made in the CS. Chance will carry this bill on the Floor. Chance moved HB 205 with 2d CS by Judiciary out of committee with a "Do Pass" recommendation. All present signed "Do Pass."

McVeigh reported that he was redrafting the bill which the Governor vetoed on legislative immunity while attending the legislature. This will be entered as a Judiciary Committee bill.

Meeting adjourned at 4:05 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, February 5, 1974

Chairman Tillion called the meeting to order at 3:10 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Chance, Orsini and Tillion.

Pari-Mutuel Betting

HB 23

The second CS for HB 23 - Pari-mutuel betting - was prepared and distributed to all committee members. Randy prepared the CS to show it only as for horse racing. Malone asked if anyone remembered about the information on lines 18 and 19 of the second CS. He wanted to know if the Alaska State Fairs was a closed shop association. Tillion said that it wasn't, in fact, just the opposite. In the beginning there were four and now there are ten. Actually there was no way to screen anyone out if they wanted to join the association. (Randy arrived 3:15) Orsini asked Mr. Ose to explain his bill.

Mr. Ose testified in favor of his bill and said that the State Fair Association really wanted this. He said they have had large attendances at the fair in Palmer and they wanted to get a good track in operation. (McVeigh arrived 3:16) The monies coming from the fair will go back to the fair which will help them build it up to what it should be. It is getting harder to get money for buildings and as an example he said the building that housed displays of produce were standing room only. This bill would allow the fair to become more self-supporting. He also said that in the valley now horses are becoming a reality. There are over 1800 now and it is the coming business. The people that have these horses are going in for race horses. This sport is a great crowd pleaser. This will bring money into the state. He said he doesn't see anything wrong with this being allowed.

Malone asked about paragraph (c) on Page 1 of the CS. Lines 24 and 25--does that mean that if the provisions were violated would the board revoke their license. Chance noted that the sentence above was referring only to where the betting takes place. McVeigh felt this would be taken care of by regulations. McVeigh asked if it was the intent to make this a strictly annual fair arrangement. Tillion said that it was. Malone said the commissioner could make regulations to cover this. McVeigh noted bingo in Anchorage as an example. There are existing regulations about how big the pot, how big the prizes, how often they can be given away, etc. Tillion said that the commissioner "may" issue permits. Chance wanted to know if we should say, the Department should promulgate regulations. Material was read from the statutes on this. Malone moved and asked unanimous consent that we report out 2d CS for HB 23 out with a "Do Pass" recommendation. Orsini objected. The bill was signed out. McVeigh will carry this bill on the Floor.

Meeting adjourned at 3:32 p.m.

Meeting of the House Judiciary was called and met at 3:14, February 7, 1974.

Present were Chairman Tillion, Ms. Chance, Mr. Orsini, and Mr. Malone.

Exempt. Insurer. Safety Inspec.

HB308 was discussed and in answer to Mr. Tillion, Randy Berry said that the Supreme Court has not said that we could not do it. Insurance companies cannot say what you should do to be insurable. They are liable if they do, and some sort of accident occured. Rep. Chance said that she did want to hear someone speak on this bill.

HB 308

Mr. Malone asked about line 16 and how it compares to line 1. They appeared to conflict.

Mr. Orsini asked if it could not be included in the contract.

Ms. Chance asked who requested this bill and Tillion replied that he did not know. Mr. Ose could give information on this.

Mr. Malone will research this bill.

Ms. Banfield arrived at 3:21.

Trails and Footpaths

HB310 -- discussion of this bill followed with Mr. Orsini asking whether motorized vehicles were restricted to only the trails along highways.

HB 310

Ms. Banfield stated that Mr. Orsini was a motorcycle buff--which Mr. Orsini admitted was true.

Mr. Tillion said that we should hear from the sponsor of this bill. This HB 310 will be taken up Monday. Mr. Willard should be notified. Someone from Highways, and someone from Natural Resources should come.

It was stated that by the same token--trails designated as motorized, would not be used as bridle trails.

A clear definition of trails is called for. Randy looked it up, and so did Mr. Malone, and there is not a clear definition.

It was decided not to have a meeting on Feb. 8th. Ms. Banfield will research HB310.

Meeting was ajourned at 3:40.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, February 13, 1974

Mr. Tillion called the meeting to order at 3:15 p.m. in Room 106, Conference Room, in the Assembly Apartments. Present were Chance, Tillion, Orsini, McVeigh, Banfield and Randy Berry.

Law and Order Legis.

The chairman stated that he would begin taking testimony on law and order bills.

John Spencer, Attorney for the City of Anchorage, was the first witness. He said that he would not go through all the particulars in all of the bills, but that the Anchorage Chief of Police and Mr. Joe Balf, District Attorney, would have more specific comments.

He said that during the first part of January he and his group had talked with the Anchorage delegation and had told them that legislative reform was necessary. Many things have happened since then. One of the things is that they have appointed a committee to review the criminal rules. They wanted to ask the legislature for relief and some of the rules changes would solve some of their problems. He said he realized that unless a person is exposed to these problems on a daily basis they really can't realize the seriousness and magnitude of it. He noted that he had talked to the governor on some of these serious situations and the governor has some bills entered to try and aid in the arresting of criminal activities in the state. The problem stems from the fact that people commit offenses against property and people. The main categories are burglary and robbery, which is increasing at an alarming rate. He said that from '70-'73 there was an 80 per cent increase and that the recidivism was astronomical. He didn't know the exact cause of this, but the fact remains that it is the case. The same people are doing the same things over and over again. For this reason, there have been some proposals made to the legislature. He said there were some specific recommendations from Judge Lewis of the Third Judicial District. These were probably given to Mrs. Fischer or Senator C.R. Lewis. These have been prepared to rectify certain situations.

He felt that recidivism came about because people commit crimes; get out on bail; commit more crimes; and, so it goes. It is a question as to whether or not you should put these people in jail or give them rehabilitation. Whatever we are doing now is not working. He said their solution was to get these people off the street. There are some bills in this package that will do just that. He said they felt that the right to bail was inherent in the constitution. They want to place some mandatory stipulations on the right to bail. Basically, under the constitution it says bail will be available except for capital offenses. We feel that there are other areas where it should not be so readily available and possibly prohibited. He felt

this might be part of the answer.

Law and Order Legis.

Mr. Spencer said there was a great need for a statutory definition of a habitual criminal or else a statutory definition of the crime the person is being charged with after proof is very great and evident may be sufficient to show the judge that that individual is a danger to the community and should not be released on bail. There are various areas in which this should apply: selling narcotics to juveniles, rape, etc. Either that or a large bail should be placed so that it would make it very difficult to get bail money. He felt that when an individual is on a suspended sentence for a crime and commits that same offense again while on probation that that should be taken into account and even statutorily defined as being the necessary element of being a danger to the community. He said they had many cases of this in Anchorage. He felt that this condition was intolerable. He, also, said that many times it was felt that the sentence of the court was not sufficient to deal with the problem. For that reason we are asking for mandatory sentences for certain crimes: rape, selling narcotics to juveniles, maiming. There are laws giving minimum sentences for habitual criminals but the courts have held that subsequent legislation has overruled giving minimum sentences to such an extent that a judge may give a suspended imposition of sentence or suspend any portion of the unserved sentence. In that regard, we feel that the statutes must be clarified. (Malone arrived 3:25) We feel that there should be some requirement to have some input to the parole board before parole is granted to an individual. We realize that there is a statute that allows an individual to serve 1/3 of the sentence imposed before one is subject for parole. There should be a report from the prosecuting attorney's office or the police function which worked on the case.

Mr. Spencer said they felt that more stringent controls for parole to be successful is necessary to prevent problems developing from sentencing the individual and then seeing that same individual on the street soon thereafter. Anchorage delegation would support any legislation which would make it mandatory for the presiding judge to have this input before parole is granted to an individual for a criminal offense in the state.

Mr. Spencer noted that there was a bill on disorderly conduct. He said this was taken out pretty much by the Supreme Court nationally in the last few years. He noted there was a disorderly conduct statute passed; there had been a hearing near the last days of the session before it was passed. He feels that there is something else needed. He said the Chief of Police would discuss this further. He said that basically they felt that the system is not working at the present time. We have seen the statistics produced by the court system and they show an alarming problem does exist in the State of Alaska. He said he felt that the problem was acute enough at this point and people are so aware of it that some legislative action will be necessary. We just hope that you don't over react.

be controlled. Maybe even saying that plea bargaining could not be done without the permission of the superior court judge. Many people will disagree with this. I believe that the cases are going to have to get before the court before you can blame the court for not doing the job.

There is already a law on habitual criminals on the books. It is a must for the police to report this; the court also is to take action. We have advocated that each and every case against and individual should be filed against him. I have heard it said that this is too harsh. If you think this is too harsh, water it down so that it is realistic.

In the field of drugs--the only people we are kidding are ourselves. The Family House concept has proved to me that you can't cure the addict and peddlar by sympathizing with them. He said they had contacted 136 mainline addicts; 36 went to the treatment and as far as he knew only 4 finished the treatment. To really cure an addict you have to literally straighten the person out and change his way of life. You have to also create an incentive for the addict to clean up.

His next comments related to bail. Gave the example of an individual arrested for burglary--4 days later again was arrested for the same offense. He was out on bail. After further questionings, it was learned that the person had broke into 9 houses that day. He said he couldn't imagine any judge who sets out the rules for probation or parole not to expect the individual to follow those rules. The probation officer or parole officer who finds one in his charge not following the rules set down by the judge should see that the individual is taken into custody immediately. A hearing could be held after they are incarcerated. If we don't think the probation or parole officers have that much ability, then we need some different ones. The same thing goes for policemen who don't make cases. This is the only way the probation officer can gain respect for the rules set down by the court. He said that a lot of this legislation isn't going to do any good, that is, if you don't put teeth in it.

HB-391 - Disorderly Conduct. He had no complaint with this bill. This would fill in where the municipal ordinances don't.

HB 451 - He wondered if this wasn't a little bit too harsh. He felt this shouldn't be any greater than a misdemeanor.(False reports to a police officer.)
HB 452 - Firearms during commission of a felony. There already is a law on this. This law calls for a 10-year mandatory sentence. This is apparently in conflict with another statute. In many cases an individual may not use a gun but only pretend to. He felt that the threat of the use of a gun should be considered also. Another reason is that it won't take the robber long to know that you can pretend to use a gun and get your job done without being liable for the mandatory sentence.

HB 460 - Mr. Spencer commented on this bill. (Assaulting a

peace officer.) He felt this bill was too broad. The police officer may be struck by a drunk person, etc. He felt that this bill could be amended in subsection (a) to show that a person who assaults a peace officer with intent to do injury would be better. If you are going to make it a felony then it should be a more serious type of assault. The Chief stated that it sould be easy for a person to be overcharged in a case like this. He didn't feel that assault should be automatically a felony. He said that he had arrested persons who tried to hurt him, but actually they weren't doing him any harm. He said many people would strike at you in a given circumstance, but a few minutes later wouldn't even think of doing such a thing.

HB-511-Release on Parole. The Chief said this was a good bill.

HB 512 - Minimum penalties for conviction of certain crimes. He felt that there should be some changes made in this bill. He felt there should be an addition relating to disfigurement. Where you disfigure or cut a person with intent to disfigure, using poisons or caustics, etc. in the eyes or face there should be greater penalties. It is most horrible when someone throws acid into the face of another with the intent to disfigure. He felt that type of individual should be dealt with severely.

HB 513 - Committing a felony while out on bail. He had already commented on this.

HB 515 - Chief Hibpschman had no comment on this.

HB 564 - Plea agreements. This is good. It leaves the habitual offender out of it.

McVeigh asked the chief about the transmission of criminal records. (HB 563) He asked about rap sheets showing on the arrests but not the disposition of the case. He wanted to know if there was any way to show the disposition. He noted that when a person is booked that entry is forwarded to the FBI in Washington, D.C. and placed on the person's rap sheet. Is there any system that can by devised to show the disposition? Chief Hibpschman said this was a serious problem all across the country. He said the system has broken down completely in this respect and he doesn't know what to do about it. Chief H.said he had to write letters to the court of jurisdiction in order to get a certified copy of the case. Now there will be an automatic input into the automated system giving disposition of cases. He thinks this will help things in our state but that nationally there will still be a lack in this respect.

Mrs. Banfield asked about HB 562 - Increased punishment for prior criminal conviction. Mr. Spencer said this is the bill that makes it "must, may, must" concept of habitual criminals. They approve of this bill.

Chief H. commented further on HB 563 - Transmission of records. He said he had no objection to this as long as the transmission

was a copy of the original. Mrs. Chance asked if AJIS was going to have the disposition of cases put into their system. The Chief said this was true. He said that he didn't think we could depend upon the rest of the nation to keep their records updated.

HB 565 - (Firearms during commission of certain crimes). The Chief referred the committee back to HB 452 and felt that it was a better bill. He did have a suggestion to make. He felt that there should be added to either of these bills some provision saying: "commission of a felony in any occupied premises". This would include the home, office, etc. Also it would cover a janitor in a building.

HB 566 - Pre-sentence reports. He said in his activities from time to time you will find certain individuals out on the street at certain times and he thinks the coming and going of these individuals should be included in a pre-sentencing report. The ones consistently committing crimes are seen about by the police officers. The judge doesn't get a good image of the individual if he doesn't see these things. It seemed to him that an individual convicted of a crime, that the judge should know whether or not he is one our about the streets with other known convicts or criminal types. Everything about the individuals should be before the judge before the sentencing takes place. This should include his good points as well as the bad. Otherwise how could the judge do his job well. Banfield asked him if he meant that the people preparing the pre-sentencing reports should contact the police. The Chief said they do contact the police, but they only take what they feel should be used against the individual. He thinks the whole sheet should be put before the judge.

HB 568 - Probation and parole violators. This has already been discussed. When a parole or probation violator has been found by the probation or parole officer to be in violation of same he should be taken into custody immediately and then all hearings on this matter would be held after the individual has been incarcerated.

HB 570 - Requiring restitution. He said he had no objection to this but couldn't understand how it would be enforced.

Anchorage City Attorney, John Spencer, commented on the resolutions. He said that these were talking in terms of changing the constitution. On the one that gives absolute right to bail there are two problems. If the person is a danger to the community, he shouldn't get bail. I mentioned this briefly in my opening remarks. We want the availability of the DA to go into the judge's court room and have sufficient time to prepare a case where he could show that in fact this person is a danger to the community. HJR 68 deals with the six-man jury. They felt this was a good concept. It is also catching on in the lower "48". Going back to the discussion on bail he said he felt that the judicial officer should be able to say to an individual--"you have just finished your sentence on another crime and I know you are going to be back in someone's house

tonight robbing them"--so he should be able to say that he was not going to grant bail. He should be able to tell them that they will have a speedy trial. In times past cases were taking too much time. That has been changed and we are processing cases faster. One recent case taking 18 days from time of arrest. He said whether we statutorily defined what a danger to the community would be or not was up to us. He thought it should include sale of narcotics to juveniles, repeated crimes of the same nature, etc. Something is necessary to change the constitutional provision that would simply grant bail to everyone. He gave a few figures on the rise in crime in Anchorage. This included the City of Anchorage and Spenard. They are rape - 82.5%; robbery - 23.5%; aggravated assault - 25.9%; burglary - 64.1%; and that 51% of the crime in all of Alaska took place there. Because of these alarming figures Anchorage feels that something has to be done--especially when you are talking about burglaries. During 1973 there were 1,680 such crimes committed in the City of Anchorage.

Malone asked if they had the absolute incidents of each case. Mr. Spencer said he would provide this information for the committee.

Chief Hibpschman gave some figures on burglaries and the recidivism. He said there were 84 arrests between August 15, 1973, and December 31, 1973. Thirty-six of these individuals were known to be repeaters--some as high as 24 offenses behind them. He noted the example of the youngster who committed 9 burglaries in one night making it look like a terrible increase in crime. And it truly is, because they are left out of jail and keep doing it.

Chief H. mentioned three other bills--all Senate Bills (305, 307, and 322). On 305 it would be difficult to make a case against an individual under the influence of narcotic drugs. He said they might be high on marijuana or hashish and he knows of no test that will show that this is what has been the cause of a person's actions. He said that even under the DWI provisions that they were frustrated in how to handle these cases. He felt we should do away with such statutes that we have and make it a violation for anyone to operate a motor vehicle that is incapacitated for any reason. Then this would include being under the influence of drugs, alcohol, or whatever. This would make enforcement much easier.

Orsini asked for a little more information on recidivism on burglaries. He also wanted to know where the burlarized items go. Chief H. said they went to the honest citizen that would rather not know where it came from and sometimes these things are transferred to other areas by going through the mails. There are also businessmen who resell these things to the public. He said they removed the stickers and put new ones on. Banfield felt if you could remove the profit motive you could cut down on the burglaries. The chief said that his department had purchased an engraving tool with which the public could mark their possessions with their own social security number. This has helped in identifying stolen items. McVeigh

asked if these items were ever sold at an auction. Chief H. said they could be sold individually or they sometimes give the items to another person who passes them on to another. Mc Veigh thought that stores should give title to the purchaser on larger items such as furniture or TV sets. The chief said they had tried that but the merchants did not want to do it. It just didn't seem very workable. The chief thought we should make serious to steal the goods and then to have it in their possession with knowledge would be a good approach. He even felt that when we had passed a law giving 5 years for burglary, that might be a better deterrent.

Chance said that McVeigh and Banfield were getting into the things she wanted to ask. Maybe we should make it serious to steal and have it in your possession. She went back to the thought that the businessman should put a serial number on big items. Chance said it wouldn't make any difference how serious we made it, if the police couldn't make any case. The Chief said they did make some cases. Chance then asked about the operation where they are doing a number of burglaries before they get caught--where do they store the goods? The chief said that most of it was sold back to the average citizen. He doesn't know that it is stolen. The smaller things are boxed up and mailed out of the state.

Mr. Spencer said that the governor's bill, SB 323, can help a lot in this regard. This would allow the police to pick up a "little hood" and offer him immunity from that offense so he will tell where they are selling narcotics, etc. If they fail to respond to the questions they may spend some time in jail. There are cases that have gone up for this. Three have been in jail over three years because they refused to answer the questions. If you passed this senate bill it would get to a lot of this not only in burglary but in drug related activities, too. He said you may have to forfeit a case, but you would go along with the individual to get the necessary information. He felt it necessary that we encourage the governor's package.

The next witness was Joe Balfe, District Attorney, Third Judicial District, Anchorage.

He said he would like to direct his comments to HB 564 - Plea agreements. He mentioned Rule 11 of the criminal rules. That rule requires him if he enters into a discussion with the defense attorney that before he can plead guilty he must inform the superior court what his recommendation will be. The superior court must agree to accept my recommendation before he can accept the plea of guilty. Mr. Balfe said that it was not he who was sentencing the person, it is still up to the court. He only gives the recommendation. The judge can accept or reject it. If the judge does reject the recommendation, he must tell the defendant that he will not accept the DA's recommendation. Then the defendant can still plead guilty or just take his chances.

Mr. Balfe explained how plea bargaining worked. He said that 95% of the criminal charges that come into his office originate

with the police. The person has been arrested by the police and the charge comes in to him. He said he didn't think that there was any question but that the police overcharge. As an example a policeman might not know whether a crime was manslaughter, second degree, or first degree murder. He might say that it was first degree murder with the idea that it gets to the DA where it can be reduced to the proper charge. The officers often overcharge because they are not on the scene at the time of the offense. This way they can take them in without a warrant. Many times they are charged with a felony when in actuality it is a misdemeanor. The officer while making an arrest in the field needs probable cause in order to get a conviction, and it must be beyond reasonable doubt. There were 854 felony charges filed last year and the DA reduced 79 of these charges. This was for 1973. He gave some examples.

One was of a man charged with assault with a deadly weapon. Careless use of a weapon would be a misdemeanor. They had a hearing because there was insufficient evidence for a felony charge. Still, by trying to go on the felony charge, I may not be able to prove this but I can get him on a misdemeanor. The defense attorney goes to the man, he agrees to give a plea of guilty to the careless use charge. He gave several other examples, too. This is what they call plea bargaining. He does not feel that you should do away with plea bargaining. He felt that someone had to have the authority to reduce the charge downward where warranted. He asked the question that if we do away with plea bargaining, who will make the decision to reduce charges. Someone needs to have this authority. Then there comes to mind--what about the defense? It is recommended that a prosecutor handle no more than 50-60 cases a year. He meant felony cases. He said that he had five prosecutors in his office and they handle 170 cases each per year. If this bill is passed he would need an additional 12 felony prosecutors to handle only felony cases. They also handle 4,000 misdemeanors a year. If you do away with plea bargaining on misdemeanors, he just doesn't know how many more men he would need. This would entail the need of more judges--say 12. The police would also need more personnel. He said he would tie up three policemen at each trial. He has about 36 in court all year long.

Mr. Balfe said that maybe he abused plea bargaining. Maybe he is too tough. He said the legislature could eliminate the DA but not to eliminate plea bargaining. He brought out that every recommendation has to be justified to the head DA and the judge and to the public. American Bar Association standards are based on these things: (1) is he guilty of that crime? If not, the DA shouldn't be prosecuting him or else he should be prosecuting him for the crime of which he is guilty. The DA must decide if he can prove the crime; whether or not he should take the case to trial if he can't prove it. He is supposed to be trained to know this before the trial. With 854 cases you can't give your full attention to all matters relative to the cases. He gave the example of a murder trial--first degree. Maybe it takes three weeks and $20,000. I know we can't prove this case. He agrees to go into deliberation for manslaughter. The easy

way for me to get out of it is to take him on first degree murder and they come back with a manslaughter conviction. This is true, because I know I can't get any more than this. Perhaps the individual is guilty of first degree murder, but I have to make that decision. I have to ask myself if I should do that and look at the facts or go to his attorney and if he would plead guilty to manslaughter I would then ask for the maximum which would be 20 years. The defense attorney and his client think it over. Then there is a question as to whether he should take a chance and plead guilty for manslaughter because possibly he could get ten years. In conclusion, he said he didn't think there was anything improper in plea discussions. If we are too lenient the public will let us know and if we are too tough they will also let us know. Chance asked if Mr. Balfe had to tell these things to the court when he went before them with his case showing just why the lesser crime with a lesser penalty was chosen. He said this was the case. You always have to give a reason. Chance asked if the judge had any other action except the review. He said the judge can say to the DA that you are being too lenient and if he decides this is so, he will not accept the deliberation. The judge has the last say in the matter. Orsini asked if the judge could require the DA to make a lesser charge. He said only the jury can do this. McVeigh said he felt that the judge could come in with a reduced charge. There was some question in his mind that if the prosecutor refuses to prosecute what could the judge do. He might be able to get the DA fired.

Mr. Spencer offered comment on this point. He said they had a prosecuting office but they didn't have as many cases. They have 5,000 misdemeanors and they are sitting in on from 15-20 trials a day with one prosecuting attorney and one judge. If we ever went to a total ban on plea bargaining--a much larger staff would be required. He agrees that a great deal of the negotiations has to be done in accordance with the dictates of the court. Orsini asked about the person who is overcharged for various reasons and really gets a lesser charge. If the criminal knows that the court system is jammed up he will actually hold out for a lesser sentence than what he could get, doesn't this happen? Balfe said there was a problem. If this criminal doesn't take our recommendation, and he takes us to trial he is going to get a lot more. This is where we are stuck. It doesn't always work this way. He can force us to trial and he may not get as much as we have recommended in the first place. They can't go over our recommendation and they can't go under it.

Mr. Bill Sheffield appeared before the committee as a representative of the Parole Board. He said the board had five members, an executive director, and a payroll administrator. They meet four times a year, once each quarter. The length of meetings ranges from ten days to two weeks. This amounts to two months each year being spent on business for the board. He said they traveled from Juneau, to Fairbanks and Anchorage. From there they went to the adult camp at Palmer. They finish

up at the new institution at Eagle River. They see about 450 cases a year. From that figure you can see what the workload would be. He said the last two or three times they have begun to keep a complete file on each inmate. These show the judges' comments regarding the inmate's sentencing. After they have the complete sentencing report they get the institutional counselor's report on their interview. The parole board always asks for the judge's remarks about the individual coming up for parole. He said that in 95% of the cases they get no reply from the judge. Mr. Sheffield said there was a problem of each judicial district judge having a different method of sentencing. Some give 5-year sentences and then suspend three. Another will give a 5-year sentence and suspend 4. There is no continuity.

A hearing is conducted as follows: All the preparatory reports are considered; the inmate is interviewed; the counselor is called in and gives his view; the board then expresses their view; and, lastly, the prisoner is called back in and given the results. The meeting with the counselor may run from 45 minutes to an hour. The board does not vote on the matter until the counselor has left the room. When the inmate is called back in for the final decision, the board may tell him why they voted the way they did. We may do this even if we don't parole the inmate. He said that some states use a contract method and tell the prisoner that if he does what they say must be done that he can expect to be paroled. This serves several purposes. It has them doing certain jobs and they learn to perform in a certain manner. This method in effect tells the institution what the parole board would like the person to be doing to get him ready for parole. He said they had used this method in this state some and they felt they might begin using this more fully.

Mr. Sheffield commented on HB 511 - Release on parole. He said they felt this was not constitutional in Alaska. He said the way it reads now that they weren't sure that they were going to impose a 1/3 sentence in some instances in their manual. He said it really falls back on what the judge should be doing. If the judge has the information at the time of sentencing, then when circumstances fit the 1/3 sentence policy should rule. At present there are very few cases where they do impose this rule. He said the parole board's actions have turned out pretty well over the long run. He said out of 250 cases for 3/4 of the year they allowed parole for 105. In that time they have revoked parole for 15 persons. Of these 15, not all had been paroled by this board during the 3/4 year. This could have been from previous paroles. This makes a bad decision rate of about 10%. The national average is about 29%.

Mr. Sheffield said it was true that they had made some mistakes; but it is only the mistakes that you hear about. There is never any publicity about the successful paroles. He said they were concerned about the 10% that they incorrectly released but they are also concerned about the ones that they should have put on parole and didn't. He said they made those mistakes, too.

McVeigh asked what limitations were put on the Board in terms of putting a person back on the street; he asked about the felon who was sentenced to five years--he wanted to know if there was any rule or regulation or law that says he must serve a certain portion of that fine or could he be released immediately. Mr. Sheffield said that for any sentence over 180 days, they can get immediate parole. Mr. McVeigh asked how the prisoner could get a hearing before the parole board. Mr. Sheffield said they just merely request a hearing; McVeigh then asked if they had to hear the case irregardless of the situation--Sheffield said yes, they do. McVeigh said the only one that demanded the mandatory sentence was the felony regarding narcotics--Sheffield agreed. McVeigh asked if the inmate had legal counsel when he appeared before the Board, Sheffield said the A.G. had recommended this but the Board had never felt it was necessary. McVeigh then questioned Mr. Sheffield on what section of the constitution he felt prohibited serving one third of the sentence. The question was referred to Fred Boroughs who said he had the A.G.s opinion on his desk that referred to the proposed statute. The gist of the opinion was that the parole board does not have the authority to establish a one third sentence rule or even that they serve a particular part of the sentence before they are eligible for parole. McVeigh said that this was highly objectionable--he felt the parole board could have their own rules that could dictate that they would not consider a release on parole unless the subject had served one third of his time. Mr. Sheffield said he would like statutory authority to do this.

McVeigh asked how many cases they had of where a judge said he would sentence for five years, but that the person must serve two. Sheffield said that this was about five cases out of 150.

McVeigh noted that if the judges were requested to be more specific, their recommendation would be binding on the parole board. Sheffield agreed.

McVeigh stated that the great concern is that people are being released prematurely and he felt they should be held a bit longer. He said that that was not what he felt, but the people who he talked to felt that way. The reason for this is that the legislators are trying to evaluate whether or not they should be forced to serve a certain amount of time.

Orsini asked about the 10% figure--of parolees who repeat crimes--is their parole automatically revoked? Sheffield replied that it depended upon the crime committed--much like a traffic violation.

Orsini then asked about the percentage of those not paroled as they serve their sentence that commit another crime and then go back to jail. Mr. Sheffield said he didn't have any figures on this and thought Mr. Adams, from the Division of Corrections, might know. Mr. Adams said they were in the process of getting a recidivism study; full statistics. This will be a three-year analysis and he expected it by the first of March.

Mr. Sheffield said the board has an administrator and a secretary in the office. They also have the availability of the Division of Corrections files. Malone asked him if they had enough staff. He said he hadn't talked to Mr. Bowersox, but they definitely were not overstaffed. Just enough personnel to do the job. Malone then asked about the tenure of board members. Mr. Sheffield said that at the start of this administration they would have four-year terms. Malone then asked about the background of the individuals appointed to the board. He said they were just ordinary citizens. Malone asked if they had had any training in rehabilitation. He said that the chairman was Fred Bowersox and he had experience in law enforcement. He was appointed with Reverend Bill Lyons, of Anchorage, Steve Hotch from Klukwan; and Fred Huff from Fairbanks. We also had an executive director. After this, Mr. Sheffield was made chairman and by then had a couple of years of experience.

Malone noted that the caseload was from 450-475 cases per year. Mr. Sheffield said this was correct. This would make it so you would have to handle at least 100 cases per quarter. Malone noted that if the quarterly meetings took about two weeks this was a very large workload. As an example, Mr. Sheffield said they had handled 10 cases today. They had planned on eight, but before they were through they had considered 10. Malone asked if Mr. Sheffield had any information about parole boards in other states. He said in some states there were appointed boards; some with executive directors; some were full-time boards. He felt there might some states with supreme court rulings saying that they are required to have a full-time board which receives compensation. Mrs. Chance said that 27 states have full-time parole boards.

Malone asked if the parole board or its executive director gave comments for proposed changes in legislation. Mr. Sheffield said that they were going to meet that evening. He felt they would have some discussion on this.

McVeigh asked how much time per year that he spent on parole board activity. He said that they met four times a year and approximated two months. He said, also, that two members of the board make an outside run twice a year. This is because the State of Alaska contracts with the Federal Prison System to house their long-term prisoners. Some of the places he mentioned were McNeil Island, Long Port, Terminal Island, Tulsa, Marion, Illinois, Leavenworth, Kansas, and others. He said the state has only about 37 prisoners outside. In

the past, only one member was sent to these prisons. Now they have made it a rule that two people go. This way then can spell one another off. McVeigh asked if one man would make the decision to grant parole on these visits or not. Mr. Sheffield said they take their report back to the parole board and the decision is made there. McVeigh asked if he got per diem and what his personal feelings were about no compensation for doing this work. He noted that the Senate had a bill before them that raises their per diem. He said he was happy about that. He also said they had just made their presentation before the Finance Committee. He added that at this point they are satisfied with what they get.

Banfield asked about parolees; do they have to stay in the state when released? Mr. Sheffield said that a person was not granted parole unless they had a parole plan. They have to have a place to live, a job, and if he changes his place of residence he has to notify his parole officer. In reality it is the parole officer that says whether he has to stay in the state or not.

Mr. Sheffield said that the state has an intrastate compact. If the person wanted to go to Washington, then we would through the Division of Corrections prepare the details. They then take over the case. They work this out with the State of Washington where they accept him and will supervise until the completion of the sentence. All states have this reciprocal agreement.

Banfield wanted to know if the individual went bad while outside would the reciprocating state let us know about it. Mr. Adams said that transfers are made only under the compact.

McVeigh asked if there were any intermediate plans, such as half-way houses. He meant that they would be required to live in these before putting them on the street. Mr. Sheffield said that they always have to get the person ready. They send him out on work release programs for three months. Then they could be transferred to the half-way house where they come back every night. They pay a certain amount of rent in these instances. The person is still incarcerated at this point. Then the next time the parole board meets he will be considered for parole. He said they could parole a person to the half-way house while he is looking for a place to live.

McVeigh asked who assigns the parole officer. He said it was the Division of Corrections. They have professional staff to do this. McVeigh also asked for how long the person stayed on parole. Mr. Sheffield said until the completion of the sentence.

Chance asked if we had adequate community alternatives as we tried to work these people out of the institutions. She was referring to provisions such as the half-way houses or places that work with these people. Especially places that would work with the parolees plan. Mr. Sheffield felt things were

improving along these lines. He said that several years ago it was harder to find help for these people. Now they have family services, half-way houses, ARC programs, etc. Sometimes we are truly stuck for an answer though. Chance wanted to make the observation that they were turning down more requests for parole than they were granting. Since 1971 the number of paroles granted has decreased. In the meantime, crime has increased.

Orsini asked what would be the primary need in the improvement of the parole board.

Mr. Sheffield felt it was doing all right at the present time. He said that sometimes they met with only a three-man board. Sometimes they have to reschedule their meeting times because they can't get a quorum. Even with these eventualities, they have been able to cope with the problems. Orsini asked him at what point he felt that a full-time board would be necessary. Mr. Sheffield said he would hate to see a full-time board. He felt it was too easy for it to become institutionalized. He felt the individuals in the job would get so professional that it wouldn't be the same as now where they have ordinary people filling these positions. He thinks it is beneficial to have five people that come from different walks of life to do the job. He felt that eventually the caseload could get so big they would have to give this idea some consideration. Orsini suggested two parole boards. Mr. Sheffield felt this would be much better.

McVeigh commented that he thought the parole board in actuality were doing some sentencing on their own. The board will tell a person that he has to serve another two years and then maybe he will be considered for parole. McVeigh felt there should be some kind of training provided for board members. He felt they would need training in evaluation particularly. Mr. Sheffield agreed with this comment. He said it is frightening when you think of the power that the board has over a man's life.

The last witness for today was Herb Soll, Public Defender for the State. He addressed most of his remarks to HB 564 - Plea bargaining. He said he was not before the committee to defend this process. He said he believed thoroughly in the time process and prerogative of the Legislature. He said the committee may want to do away with plea bargaining but that he agreed with Chief of Police Hibpschman of Anchorage. He said that the chief gave a pretty good and accurate picture of what takes place in the plea bargaining arena. Mr. Soll said he was not sure that everyone not familiar with plea bargaining understood or absorbed everything that was said. The chief mentioned the rule of the court and in this rule the judge has the right not to accept the recommendation of the DA. The prosecutor makes his decision known. It could be made on false statements and knows that if he goes to trial he will be embarrassed by it. The elements may be such that you don't want to bring it to trial, for instance, a disturbed youth. Is he the burglar you imagined? It is in these cases where the prosecutor may decide

that it would be worth the time, public expense, and losing by going before the jury with his case. So he gives the incentive for the defense to do plea bargaining. In the trade this is called "copping a plea." He said this process has been used for 50 years and there is nothing underhanded in doing it. He said if the committee desired to stop all plea bargaining, then they should put in a companion bill to increase the number of judges, prosecutors and public defenders. He said in his office they never have enough money to do the things they have to do. That's why he doesn't think this would be wise use of money. It would take hundreds of thousands of dollars to send this many more cases to full trial and also the expense of calling in witnesses. He could see that the trials would be more lengthy and at least the state's witnesses would have to come forth and prove all of the elements of the crime. He said there were a lot of responsible policemen who do their job well that are confused by this sort of thing. They are not lawyers and they don't usually pay attention to the technical elements of the crime. They are not solid on their elements and it may be a much lesser degree of crime. They know the person has done wrong. They also want to see him brought to justice. They get rather frustrated. He said they felt plea bargaining was dishonest and should be eliminated. He said he wasn't sure that the policemen's views were based on a thorough understanding of the legal system.

Mr. Soll said that he was concerned about burglary. He said that he recognized that there is a need to have more enforcement and sanctions for breaking our laws. He cautioned against the idea that when something goes wrong it doesn't mean that the first thing you see is the cause of that failure. A lot of people think there is a breakdown in the operation of the courts but it might be something much deeper than that. He felt this breakdown may be in the family before they get to the courts. It could be the economy. He said that he knew that the jail population is rather high and the institutions are fairly well filled. For this reason, some of the people have to be paroled recklessly. These people haven't been plea bargained out of the court room. Sanctions are being used by the courts and people are serving time in jail. Everyone should look into that before they react to a situation that requires our concern. The emphasis may not even be in the legal side of things.

Mr. Soll said that he didn't identify as part of the clients but that he was part of the establishment. He felt that if you removed the flexibility from the court as long as the public will was known and the judges know what the people are thinking, he felt we would see some changes that may tighten up things that are now lax. To remove the flexibility is to do harm to the person who does not represent the usual case. This might be the kid next door who experiments with drugs, for instance. Is he the person you want to put in jail for five years?

Malone asked Mr. Soll some questions with regard to previous testimony. On the discussion of bail and committing crimes while out on bail--what, in your experience, impact does the delay of trial have on the case? Also, are the cases taking too long? Mr. Soll said that the space between initial charge and trial is probably very favorable. He said they were doing better than most states in this respect. Typically it is between three and four months. There are some exceptions, of course--the one in Bethel has taken over a year. Malone asked if a person out on bail could be out over a month to 90 days. Tillion commented that this was a long time for a repeater to be out on bail. Mr. Soll said this was true. He also noted that if an individual has a high propensity to commit another crime, existing law already covers this. He noted that the changes proposed were to change the Constition. In some cases they are realistic enough to know that it is an issue that they would be wasting time with the courts. There are certain people who are destined to remain in jail until trial, and, naturally, some after trial. Malone noted that the individual could do a lot of damage in 3 to 4 months' time.

Mrs. Chance asked if a local prosecutor would appear before the committee tomorrow, February 14.

Orsini questioned Mr. Soll on his statement regarding the police not paying attention to the technical aspects of the law. He asked if he was indicating that they weren't doing their job. Especially as it relates to getting enough evidence at the time of arrest in order to prosecute. Soll said that in some cases this was true. He said what he was trying to get across was that he didn't want the legislators to overact to this situation. He gave an example from Anchorage regarding a cab driver and a rookie policeman posing as a north slope oil driller. He asked to go to this notorious bar where they had prostitutes, etc. The cab driver was charged with pimping; the jury freed him.

Orsini said he was trying to get a feel for and an obvious concern about crime. The legislature feels that they should do something about the increase in crime. He felt that maybe we could increase the funding for police to provide more training for them and then they would be able to do a better job. He asked Mr. Soll if this would be the optimum use of the funds. Soll said that if it was spending money rather than changing the law, he was in favor of it. Increasing knowledge and capability of the people serving as policemen would be good. In this country being a policeman is not necessarily a position of honor. He said that he had observed that in Canada the police are highly honored. Orsini said that if given a certain amount, should we hire more judges or spend more money on rehabilitation and training police officers. Soll said there was need at both ends of the situation. Money was needed for the professionalism of the police and money was also needed for the advancement of programs in corrections and rehabilitation. That way you wouldn't have to be worrying about plea bargaining.

Banfield said that she kept hearing from people that say that one of the problems is that the defense lawyers, particularly the public defenders, ask for delays in the trials. They say this is what takes so long to bring cases to justice. Mr. Soll said that they had some problems because they were not staffed at a predictable level to match input in prosecutions. He said that appropriations for his office had grown like Topsy. They started out with just a guess of what they would need. Each year he said they asked to be brought to an acceptable level. He said their needs have never been associated with the appropriation. He said they had been promised a little bit more each year. When the appropriation meets their suggested budget and they are better staffed there will still be delays. He said it appeared that they were the receptacle of the system. If the prosecutors can keep bringing in the cases to the court system, they have to put lawyers into court. This takes place mostly in Anchorage. As an example, one man was to be in three trials in one week.

Chance wanted to go into these things tomorrow with the prosecutor and the public defender. She said she had heard some of the same problems as far as staffing from the prosecutor's office. She also commented on the calendaring in the court system. The same attorney may be scheduled to be in three different court rooms at the same time. This is something she would like to investigate.

Chance asked about the training programs for our police and the corrections officers. Tillion said he had heard there was a high turnover. Banfield then asked Mr. Soll if he thought our prosecutors were also untrained in their work. She said that she felt that the AG was forced to hire men right out of law school without any special training in the field of prosecution. He has a problem in finding people while at the same time competing with private law offices and others. Mrs. Banfield felt that he does a good job with what he has. She asked Mr. Soll if he felt we should do more in training these people. Mr. Soll said he didn't have a ready answer for that because there definitely is a problem. He said there is a level of idealism and enthusiasm with these new people. He said that the Public Defender's office gets a lot of applications from people like this. They feel they can do society more good in this office and shy away from prosecution work.

Mr. Tillion announced that the bill regarding postponement of civil proceedings when a person is a party, attorney, or witness is a member of the legislature was submitted to the Chief Clerk's office today. This is HB 635.

Meeting adjourned at 5:55 p.m. The hearing will continue tomorrow.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 14, 1974

Chairman Tillion called the meeting to order at 3:10 p.m. in Room 106 of the Assembly Apartments. Present were McVeigh, Beirne, Tillion, Orsini, Malone and Berry.

The first witness was Arthur Snowden, Administrative Director of the Alaska Court System. Mr. Snowden distributed a packet to each committee member expressing the views of the court system on the law and order bills in this committee. This information was filed for future reference. He noted that in the chairman's packet there were two opinions. One of the opinions related to the rights of the defendant in criminal proceedings to bail and the other related to the imposition of concurrent one-year terms of imprisonment and provision for parole at the discretion of the parole board.

The Supreme Court asked that the bills that call for mandatory minimum sentence provisions have this provision deleted. HB 563 - Transmittal of criminal records. The Supreme Court endorses this bill and recommends its passage.

HB 564 - Prohibits plea bargaining. They are opposed to this bill. They feel this is a necessary tool in the administering of justice.

HB 566 - Pre-sentence investigation report. This amends Criminal Rule 32(c) which presently provides for such reports when directed by the court. This calls for the report by the Probation Service before imposition of sentence. If this bill is passed they recommend deleting who the report will be prepared by because there may be other source material.

HB 570 - Reparation to aggrieved parties. The Supreme Court is against this because this would necessitate lengthy trials to determine damages. These would become part of the criminal proceedings. This would place a burden on the Alaska Court System. If the person is financially responsible there are already remedies available to the aggrieved party.

HJR 67 - Release on bail. The Supreme Court believes that they have adequate power to refuse bail now if the person is considered a danger to the community. Therefore, there is no need for this. They also feel that HJR 71 is not necessary.

Mr. Snowden noted that failure to discuss or comment on some of the legislation was not intended to indicate either approval or disapproval, nor were they intending to give any indication as to whether or not any of the bills or portions thereof might not be invalid for any reason.

Mr. Snowden made some additional comments on HB 568 - Probation and parole violators. He said there had been discussions held with the University of Alaska and it was felt that the

Department of Parole and Probation were overburdened now. He said they could not meet the requirements for pre-sentencing reports now. Tillion said that it wasn't a necessity to pass this bill. Mr. Snowden that that if they had funds provided to the court system they would be in favor of this legislation. (Chance and Banfield arrived 3:16)

Mr. Snowden also read the letter that had been sent to Senator Thomas on mandatory sentences. Orsini asked if this letter represented the consensus of the whole supreme court or just the Chief Justice. Mr. Snowden said that it was a unanimous opinion but that Justice Connor was not there. Orsini asked if they received more funds would they have the ability to identify more of the offenders. Mr. Snowden said they would be able to do a better job. He said the ability does exist within the justice department to handle these problems.

Orsini said that in view of the number or recidivists now it appears these problems are not being handled now. Mr. Snowden said he didn't know about how many offenders out on parole were committing other crimes. Orsini asked how familiar Mr. Snowden was with the AJIS program. He had a passing knowledge. He is very new in his position.

Orsini felt that one of the problems in the way the judicial system is set up is that the justices have to be periodically approved by the voters. In this regard, there is no way for the public to know if they approve of a justice or not, this is just done traditionally. Orsini asked if there would be any information available about the practices of justices.

Mr. Snowden said he saw AJIS as a communications network and that was why he took this position as director. He said he has delayed input into this system because he wanted to study to determine which things would really be of great benefit. He said when their component comes on he will request that information about the justices and cases will be placed in the AJIS. Orsini asked when that would be. He said it would probably be in July. Banfield asked Mr. Snowden how long he had been director. He said for six months.

Tillion noted that with regard to HJR 67 - Release on bail - the percentage of repeaters is too high, realizing that statistics can be misleading, and the people are mad. Tillion said that there were certain kinds of criminals that you can always parole and be certain how things will turn out. The feeling is that trial judges are paroling, by giving bail, even the criminals that are making the high crime rate by committing crimes while out on bail. Mr. Snowden said that he lived in Anchorage and fully understood what Mr. Tillion was referring to. He referred him to the Martin opinion. McVeigh noted that there are severe problems even if you would make the constitutional change proposed. He said he could see arguments for bail that go against the presumption that you are innocent until you are proven guilty. You cannot make a decision in that area without some notice as to what bail is and if the person is innocent. This is one of the

foundations of our American system. Mr. Snowden felt that if it wasn't against the Alaska Constitution it surely was against the Federal one. He felt that the Martin opinion would have a very profound effect in that area.

Chance asked about the 9. % of people that were committing crimes while out on bail. This was from earlier testimony. Mr. Snowden said that his figures showed 4.5% were repeaters. He wanted to know if this figured in picking people up on outside warrants. (Beirne arrived 3:35) He said they were speeding up their trials greatly. They assign one DA and one public defender with one individual judge. This way the delays will be eliminated.

McVeigh asked Mr. Snowden about HB 511 - Release on parole. This was not commented on in the letter. This referred to the one-third sentence rule. Mr. Snowden said that he was at the meeting when this was discussed. This referred mainly to parole and probation and it was felt those agencies should comment on this measure. McVeigh noted that this does affect the time the prisoner would serve. Mr. Snowden said that he would say that the Supreme Court had no strong objections to this. No comment in the letter was not to indicate either approval or disapproval.

McVeigh said that if HB 511 were enacted and the judge gives a man a 10-year sentence he will have to serve 3-4 years before being eligible for parole. Today if your sentence is over 180 days you are eligible right then. Since the judges are responsible for the sentencing he felt that should be influenced by the one-third provision. He felt the court should have a comment on this. Mr. Snowden said that it would raise an adminstrative problem. This will involve a hearing before the judge approves. McVeigh said this was right if the person petitions the court. At the same time, he has to show that the penalty is too harsh. It takes discretion away from the parole board and puts it with the court. This would have to be a philosophical decision to make. Mr. Snowden said he would talk to them about this subject.

Chance and Orsini questioned Mr. Snowden on the rate of repeat offenders from testimony yesterday. He asked if all of these 36 were out on bail. Tillion said they didn't say.

Malone asked about HB 563 - Transmission of criminal records. He noted that Mr. Snowden had said earlier in his testimony that they were in the process of determining how the information could be put into the AJIS and retrieved. Mr. Snowden said they were more concerned as to "what" information would go into the computer. Malone asked if the disposition of cases would go into the system. Sometimes a person's record will show that they were arrested for various things but there is no indication as to the final ruling. Mr. Snowden said that would be one of the things that would be fed into the system. This will also be necessary to meet projections, do research, etc. Chance asked why the courts had not gone to computer before now.

Mr. Snowden said the reason was that he had not been in his job long enough to know what would be needed and meaningful. For this reason, he requested to have a person to do research on this before they implemented their component on AJIS. He said he expected to have someone in that position by March and they go on AJIS in July. Chance said she wanted to see the disposition of cases entered into the computer bank. She wanted to know whether it would be the responsibility of the courts to enter this information. Orsini also asked Mr. Snowden if in his opinion the individual will benefit by a short sentence and then integrate them back into society. He wanted to know if there was any feedback on people that are convicted. He said there was a terrible lack in this regard. He felt you could also consider this in social terms. If you put a person in for a long term, you can probably assure that he will return as a criminal. We are also protecting society besides the offender. Orsini asked about a judge that was continually in error. Mr. Snowden said no feedback was necessary in this case because the individual would have his parole revoked if he made too many mistakes.

McVeigh asked how Mr. Snowden felt about a judge sentencing a person and then that person is given into the care and custody of another agency, such as corrections or parole where another philosophy rules. Doesn't this create a conflict? Say a judge gives him ten years; he is turned over to corrections, and more times than not they are not aware of what the judge had in mind for this individual. Their philosophies are different. You have a sentencing judge handle the administration of justice and then you have a social worker commenting that it would be best if the individual served no time at all. This seems to be one of the problems. McVeigh felt that the judge should carry through and have something to say about whether the person serves his sentence or not. Failing that, we will have to put in some mandatory sentencing procedures. It evidently is not working the way it is now. Mr. Snowden said he was not prepared to discuss this in depth. He felt that the judge could say that the person cannot be let out on parole right now. Malone asked what happens when the parole board asked for a recommendation from the judge that did the sentencing and they received no report. Testimony showed this is happening. He wanted to know why they didn't answer the inquiry. Mr. Snowden said that he was not qualified to answer that question and he will speak to the trial judges on this matter and report back to the committee. Malone said that maybe this was a problem and maybe there should be a policy decision on this.

Banfield asked if the Supreme Court Justice was going to submit suggested legislation to the committee. Mr. Snowden said that his office had not prepared any. He felt the only thing they needed was funding to accomplish their goals. He said they did have some proposed rule changes. Mrs. Banfield asked if they would be ready for this legislature. He said they have some prepared but nothing that is before this committee. They have a new advisory committee and the trial court has made great steps to straighten out that area. The rule he was talking

about was on pre-sentencing investigations and making it mandatory, that is if the legislature gives us the money. Banfield asked if what Mr. Snowden was saying was that if we pass this legislation that we should be sure to see that these things are funded. Banfield noted that there was no legislation to be offered. Mr. Snowden said he hadn't said that. He just said that none had been prepared up until now. He said they had four or five bills in the preparatory stage.

Banfield next asked about AJIS. She wanted some kind of idea of what Mr. Snowden felt should be placed on the system. He said he would like to see something on disposition of cases, average length of sentences, information on repeat offenders, plea bargaining in relation to trials, and this is so he can better use the judges in the court system. Banfield asked if he was going to put individual cases in the computer. He said it would go in under the defendant's name.

Banfield asked if Mr. Snowden had had any complaints from the superior court judges on the parole system we have in this state. He said they felt there were problems. They will be meeting and discussing views and exchanging ideas so these can be resolved. He said they had tried not to attack any part of the system. He feels that open discussion can solve many of the problems in the system. Orsini asked if there was a mechanism for this. Mr. Snowden said they only have the Governor's Commission. He thought that periodic meetings between the leaders of the various components would be beneficial.

McVeigh said he didn't think the committee could expect to hear much from the judges on substantive legislation but only those which change the court rules. There is this separation of powers and the judges have to rule on statutory correctness of law. Mr. Snowden said this was correct.

Malone brought up the discussion from yesterday on the dangerous character who is loose on bail. For the court system the typical length of time it takes a case to get to trial was about three months. He asked if that was a reasonable length of time. What can be done to speed up trials? Mr. Snowden said that strides had been made. It is his opinion that the quicker they can be brought up to trial means greater justice. There are many ways they can improve and additional funding is one. Additional funding should be given to the public defender and the AG's office; but don't forget there are probations and corrections, too. They are all involved. He said there was a pilot project going on in Anchorage where they have a public defender and the DA working with one judge. This has had initial success.

Malone returned to his previous discussion. He said what it really amounted to is that the longer a person is out on bail the more danger he becomes to the community. He said that was the reason the resolution on bail was prepared.

Mr. Snowden noted that true justice takes time, also. Chance said she remembered testimony showing problems with the

calendaring of cases. Mr. Snowden that that is one of the problems they are working on and they have another problem stemming from the fact that they have no consolidating functions between offices so that get more of a prospectus on how to handle the cases. He said that when they get the bugs out it will be much more efficient.

Chance asked about having one DA and public defender assigned to one judge. What if a defendant comes in and challenges the judge. The person would be challenging his own defense attorney and his own prosecutor. Snowden thought this was easy. If you assign the case fairly early the challenge has to be made within five days. Chance felt there was also a problem because people look upon some judges as hangman's judges and they also look upon some prosecutors as being winners. Mr. Snowden said that he would speak to the Supreme Court about this. Chance said that she hadn't thought about repealing preemptory challenges because she felt this would cause further administrative entanglements and might cause more confusion in the courts. Mr. Snowden said that he had reviewed the allegation that the great trial attorney will win so many cases--justice should be decided on the facts of the case. Chance said there had been discussion as to how to encourage the retention of professional prosecutors. She wanted to know if he had any suggestions. Chance asked if bringing them into the judicial retirement system would help. Mr. Snowden felt that Mr. Gorsuch could better answer that. Chance said that she wanted the judges opinion on this.

Malone asked if a plan was being developed for the pay classification scale for the court system. Snowden said that it was. He said that he had to appear before House Finance when he left this committee today. He will return to this committee tomorrow on HB 411 - creating a fifth judicial district.

Melissa Middleton, Alaska Youth Advocates, was the next witness. She had material on runaways for all committee members. She testified against the legislation pertaining to runaways. (SSHB 43) She explained how Youth Advocates worked for these people. She said young people come to them and say they have run away from home and don't know what to do. She said that one day she had three on the phone at the same time.

She said that the kids they have seen fall into two categories. They are either flee or fight. They have a difficult time expressing themselves to authority--mostly their parents. Often the only way they can express their feelings is to run away. They are crying out in despair and this is only transitory in nature. Young people grow out of this. Very few are age 16--most are from 12-15 age category. Many of the ones that they see meet with the parents and the young people go back home again within a few days.

Then again, there are many that don't go home right away. They won't even stay in placement anywhere.

These bills primarily address the chronic runaway. There are many cases that do not come into this category. She felt that the present bills would exaggerate the situation of running away from things. If young people are going to run away--they would just have to go underground. They wouldn't come into the Youth Advocates office, for instance. They wouldn't come to the youth service center either. They would find closer allies in other transients. People who themselves do not surface in the more legitimate community activities. She said they have conservative homes, single parents, and young adults who are willing to help these young people. Under these restrictive conditions the kids would go find some GI's. She has already talked to some of them about this. She said this was a GI problem as well as a runaway problem.

The runaway is often only saying that there is something wrong in the family. When a child runs away this is a crisis in his life. That is the time to work with them. It is also an emotional time. If you arrest them at that time it is a cop out and the child is removed from the situation. The child then doesn't have to handle the situation. If you do this you won't get anybody's cooperation.

She said that she had worked with a girl who had been a runaway. She had been through drugs and armed robbery. What would have been her opinion? She would have hated her parents. Runaways are a family problem. She said there were resources in Anchorage that are not visible that are not being used. They could be used. She felt that Anchorage should increase the alternatives for families. These agencies should become more visible.

There is a stigma when you go in to counseling. Most of the parents refused to take counseling even though there was an evident problem. They grew up in an age when only crazy people went to counselors. The borough presently has two groups going. She said that she was attending one that works with parents that have runaway children. Community College has free counseling or on a sliding fee basis and PTA was talking about neighborhood crisis centers. Then there would be a place to go. At least the community was thinking about it. These are set up for runaways particularly. At first it is easier for these children to function in an institution rather than reenter the home. The other thing that these neighborhood centers do is provide a place for the parents to get together.

These bills would label these youngsters as delinquents. You thereby give them a status. This becomes a notch on his belt. Miss Middleton said that she had seen kids change overnight. Then when you get into the adult community this has a negative effect with teachers. She said that she would hate to see a child that run away be put in the category that they don't deserve.

Miss Middleton said she had studied what other states were doing. Massachusetts two years ago closed down all its juvenile institutions. In the packet she distributed there are the opening remarks from a conference that was held. There was an article published a year later and said that this system was working well. This plan cost $4,500 as opposed to $11,000 in an institution. So there is a very strong financial reason for this plan.

Miss Middleton suggested that we beef up group homes and counseling services. She said she wasn't suggesting that we do this here but that it was working well in that area. (Copy of material is in the file.)

She next made reference to the runaway youth act from the Birch Bhye hearings of the subcommittee. This is what set up the youth centers across the country. She said she had the whole book.

At McLaughlin now they have sufficient counselors and they are training the staff to function on high levels. They take a child into the program and they classify him with regard to maturity and then as to behavior. Each cottage has a different type of therapy that fits the classification of the child. This plan originated with a youth authority in California. An interesting thing in that study is that there is quite a difference between those kids that are institutionalized and those placed in homes. There is overwhelming success with the treatment project. She told the committee not to put these kids in the institution. The institutions are not looking forward to handling runaway children. She said that she really felt that this would be a step backwards. Beirne asked Miss Middleton how she felt about publishing names of juveniles.

She said she didn't think they should publish their names. She felt this was important to the young people. This affects future employment, what schools you can attend, etc. It will hamper them later in life if you publish their names. Tillion asked if she objected to this for repeaters. She said Yes because she felt that juveniles should be treated differently. At least until they are age 18. That way the youngster won't get publicity regarding his crimes. Malone commented that what we have now might be overprotection and leading to disrespect of the law.

Miss Middleton felt that juveniles could be taught respect for authority without having heavy punishment. Banfield asked more about Youth Advocates. She said that it was a nonprofit corporation. The board of directors receive funds from the Youth Development Fund. They conduct surveys, conduct paralegal investigations and also provide counseling. We inform the kids so that they know about what can happen to them in court or how they can get back home with their parents.

She said that they also work with groups of young people to do things on their own behalf. She said she was here to speak for the kids who couldn't be here. They also publish a juvenile hand book. It is being looked at by the attorneys now. Banfield asked how many were working there. Melissa said there were four. One is a VISTA volunteer. She said she had a background in political science, the VISTA person, and had worked on bail reform and prison reform. Chance asked about the book on juvenile rights. Did this include the responsibilities? Melissa said it stresses not only what the rights are but also the realities. What expected reaction would be in certain circumstances.

Malone asked what depth of knowledge that these young people have of their rights and responsibilities to society. She said it was very shallow. Very few are aware of their right to have an attorney at delinquency proceedings. She said in fact most didn't even know what one was. They don't even understand why they can't run away.

Herb Soll, Public Defender, was the next witness. He started out by saying that he found that from members of the committee and witnesses that there isn't a lack of statistics. He would say that it requires a first hand look at the system to see if the evils are going on.

Since you have convictions cleansed from a person's record after a number of years the judge can't get this information in order to render a proper sentence in future crimes. The probation department is the one that recommended this. This seemed to be all right for young people. If they successfully completed the period of the probation they would receive a certificate. The judge told Mr. Soll that in his personal experience statistics showed that 95 per cent had come back and still had a purged record certificate.

On the question of bail. This is assuming that there have been abuses of the bail system. This is just the application of the present bail law. This is upholding the prosecutorial side by the DA's. If they can show any one of a number of elements failing, then they would have a high bail set and could keep the individual in jail. I can say that if there has been a failing there have been moves to correct this. He noted that there had been even before this body commenced its session a definite and noticeable tightening up of releasing people on bail. Maybe this was because the public was so concerned.

Today if a young person gets involved in crime, before that person can be released, he would at least anticipate a formal hearing in court, producing witnesses as to his normal behavioral patterns. You would also need a secure place for him to reside. There would have to be a report filed immediately if there was any change in conditions. This is not someone who seems to be a pretty level character. We are talking about a case of a person who has committed a felony.

These would include robberies, burglaries, etc. He didn't see a need for a constitutional amendment for anyone to deny bail. Present law gives the judge the power to set the bail so high that the person can't get out. We have people sitting in jail with very large bail amounts.

Mr. Soll made mention of the new team approach of the court system as portrayed by Mr. Snowden. He said that he was working on a case that trial was set for next Monday. Herb said this is really record time for getting a case to trial. When you have these three working together they can evaluate which cases should be handled first. There is also the danger of incarcerating a person a long time. This would be as long as the judge understands that other cases could be held over without harm to the individual. Pressure is being brought by the legislature and by the private citizens. Mr. Soll said that he agreed with what Snowden said about maximum sentences.

He gave two examples of leniency by judges--rape--was given one year. This was because the facts were such that the judge had his doubts about what had really happened. The tendency is also to investigate the conduct of the young lady involved. The other was where a man took a tire iron to another man and just left him there. He was given probationary sentence by Judge Lewis. The public has advised them that these decisions were erroneous and that they expect serious violent crimes to be handled more severely. This is the tenor of the Anchorage area. But if you remove this discretion from the judges--they even have the right to make mistakes. If you pass this, you will also include the kid next door and expose him to this same harsh treatment.

He said that the Chamber of Commerce and the Bar Association had a committee working on this. He also said that he had offered to take these suggestions to the court system. Mr. Soll said that it was necessary that the judge have broad discretionary powers.

Mrs. Banfield asked Mr. Soll if testimony she had heard about the Brothers was true. Did he represent any of the "Brothers"? He said he remembered some of the fellows who wore the jackets--these were on minor cases. He said they were not retaining counsel for all of these guys.

Mr. Hackney, Representative from Fairbanks, testified on the subject of law and order. He said that he was interested in hearing Soll's comments. He said the situation of the "Brothers" was one of the reasons that his name appeared on one of the bills. He said that he had spent some time in court, observing only, and was sure that all would recognize that some of these bills were put in here to send a message. Part of that message is obviously getting home. We have been hearing from some of the peace officers, courts, and corrections all talking about the set of bills. He said he was interested

the Anchorage testimony yesterday. From what he heard, it was evident that the messages were getting through to some of the judges already. He said that the judges in Fairbanks were handing out sentences like you play roulette. The people there are sick of it.

On HB 460 - Assault on a peace officer. There is strong feelings on this bill. Mr. Hackney said that he concurred with Anchorage Police Chief's testimony where he indicates there should be a provision on intent being specified. There is only so much you can do when you are a policeman handling drunks, etc. He gave some figures from actual histories covering the period of January 1973 to November 1973. 109 cases went into this report. These are what you would call trivial. This would be having clothes torn off, wrestling, kicking, struck in the face, hit with fists, pushed, spat upon--these are things that peace officers contend with in their line of work.

He said the thing that he wanted to bring out was that there is not going to be very much happen to you if you assault a policeman. This causes loss of respect of the officers. These cases are brought to the judges. Then, what happens? Cases are dismissed or party is found not guilty by a jury. Now you want to put on additional attorneys, judges, corrections, more staff. He said that we legislated money for those who committed the crimes but pay no attention to the victims. He felt that an equal amount should be spent on the other side of crime. This is more than a law and order package. There will have to be additional funding to give the average citizen the protection he feels he is entitled to. He said he hoped that the committee would make some changes. Mr. Hackney also desired speedy action by the committee.

McVeigh said that after talking with the police officers they felt that HB 460 was too strong. They felt that in the normal course of their duties they come into contact with people--drunks, emotional people, angry people, where physical force is used against them. This wouldn't include a lethal weapon, of course. If this law were enacted this would make a felon out of anybody that would strike a police officer, corrections officer, or a fireman. He couldn't see how to amend this bill unless we could say "with intent to do bodily harm." Mr. Hackney said he would agree to that change.

Malone said that after hearing testimony, he got the impression that the major missing link is the lack of the judge acting properly. Hackney felt that adding more enforcement officers the judges wouldn't be in any worse shape than they are now. He said that he really objected to the way sentences are handed down now. There is such inconsistency. There is no particular pattern for the sentences. He said there was a deterrent quality about going into court if you have committed a crime knowing that so and so is going to happen to you. Today, it is a known thing that the odds are on your

side and you won't have to go to trial. Malone asked Mr. Hackney if he had read the letter from Rabinowitz. There was indication that they are going to make some changes. It is to be the policy of the court that they are going to review whether the sentence was toosevere or toolenient in order to reform the individual to the social norms. The judge would still have a lot of discretion. In many cases we might be pushing a lot of these things into plea bargaining and mandatory sentences.

Hackney said that he had talked to the DA about plea bargaining. He said that it was necessary to prevent a great lot of cases actually coming into court. He may be right on this. Hackney felt that you could have a case of where a prosecuting attorney has a desire to someday become a judge--he can rack up a rate of convictions and nobody can disprove the convictions. He thinks this is used by prosecuting attorneys to project an image of themselves. Often he found that this takes place on a very hasty basis--the DA comes running into court--say about five minutes before the session. Hackney stated again that these were not felonies but only minor crimes.

Michael Peterson , from the AG's office was the next person to testify. He said that he would concur generally in the statement that Mr. Snowden had read with respect to the court's position on many of these bills.

He said that we do have a problem in terms of accurate statistics. It seems to depend upon with whom you converse. Each segment of our government keeps its own set of statistics and they differ. Obviously when the AJIS system comes into operation and we have accurate statistics as to what is happening the complete system, then we can really examine some of these problems to see if they are as severe as they are supposed to be. For instance in Fairbanks, on 300 case files only between one and two per cent were committed to a prison, put on parole, or let out on bail. This was done to give us some idea as to the frequency of the problem, maybe. Examining this in more detail the Division of Corrections and the Court System may have more clean statistics. This is just for an illustration. There is a need to develop a system for a statewide set of statistics to which we can all refer when we address the problems.

He said that he had nothing to add on plea bargaining. He said that he believed that if it is substantially reduced or eliminated it will have to be a serious commitment by the legislature so that the resources are provided to permit more cases to be tried.

In the prosecutorial section for fiscal year 1973 they prosecuted 11,867 cases. 10,213 were misdemeanors; 1,654 felonies; 70 were appeals. Each of the prosecutors handled 495 cases. This varied from 170 for senior felony trial attorneys up to a mixture of 800 cases in one instance.

The maximum caseload from other studies has recommended there should be no more than 400 mixed cases. He said that they were now operating at something like a 25% overage according to the recommended maximum. He said this tends to produce a logjamming effect in the prosecutors office. This makes a difference on the system in terms of incoming work and the processing work. It is their view point that they could use an additional number of personnel for monitoring those persons with whom they have supervisory charge.

He next commented on the experience level in their office. This is something that has been blown into a caricature that this office is not run with staff who are experienced people. He said that he took a survey and gave the length of combined years of experience. In the Anchorage office it was 111 years of law practice experience. This ranged from 21 years of experience to only a few months. He gave specific figures for the Fairbanks office. They have five attorneys; one DA, and 4 assistants. This was a total of 30 years' experience ranging from 15 years to two months. The degree of turnover has been less than in the civil proceedings. They have been able to retain in the two largest offices quite a few experienced prosecutors. He gave the ratio of win:loss cases starting with trial to adjudication for misdemeanors has been that they have taken 97 per cent of the cases before the courts. Sixty-nine per cent went before a jury;68 of which were felonies.

There are problems with maintaining experienced staff. This relates to some sort of career cycle situation. Frequently when we hire someone we try to pay them more than a private company would pay them. After a period of a few years the opportunity for them individually enter private practice where they can make substantially more money draws them away from our office. We find that we can expect something in the way of career cycling within this office. The average time is about three years. Even with this handicap the office has been able to maintain a level of experienced personnel. There will be some recognition of the need for an increase in salary which will offset the pull of private practice. He felt that it was essential that we keep track of the various components of the whole system. When the legislature created the special drug division in the state troopers last year. The Law Department was not funded for the additional work they had to do. They had to handle a large number of drug related cases. They tried to minimize the effects by having one man work with the drug unit. The other offices had to pick up the slack from him. One of the things that has been a chronic problem when you underfund one segment of the system is that you make it more difficult for the other segment to work with the underfunded portion on the processing of the cases through the system. If you could handle the case more promptly there would be a reduction in the cost of maintaining the individual. One thing to do for the favorable retention of experienced prosecutors is give them some recognition of this in salary benefits besides an adequate increase in the number or personnel to permit the attorneys to be more

proficient. If you are so loaded down that you can't handle the cases properly you are benefiting no one. While the system is experiencing some public comment and while there certainly are problems, he felt that through the mechanism of the informational meetings they may find some way to try to overcome some of these problems. It is also possible to significantly improve the coordination. This requires an appropriate relationship between the components.

The AG's spokesman commented on the special project in Anchorage where the DA, Public Defender, and the judges were working together using the team concept--this has made a tremendous improvement on the time of bringing a case to trial. There was one recently that took only 18 days. This is the kind of response we get when we meet together.

Banfield asked him who makes the decision that a person will be prosecuted, after they have been arrested by a police officer. The DA answered and said that this was made by the DA or an assistant DA. The police arrest the individual, report same, and the arrest record is passed on to the DA, then he compares the charges with the police report; discuss things about the case with the officer and then the DA makes the determination as to what he will charge the individual with. This is all based on rules of evidence. He said that it was extremely difficult for the policeman on the job because he has to make decisions quickly. One way to help him is through better training programs. The troopers' academy in Sitka has been a great improvement. Police programs would be encouraged so the police could get more familiar with the rules of evidence. Some refresher courses could also be given with regard to recent trends of law. Banfield asked if there was anyone who went over the DA's records to see if he is failing to prosecute or is he strictly on his own. The DA said that in a typical office he is fairly much on his own. He said he would take a greater interest in a DA's activities when he thinks there are problems. The volume of work is so great that it is through periodical management reports that they receive from the field offices along with a few conferences that they are able to maintain a kind of supervision possible under the circumstances. No, they do not check every case.

George Malekos, representing the Eagle River Action Group, appeared before the committee expressing his opinions of law and order. He said that he had been in Juneau a week ago. He had followed the echelon to Juneau, gone to the police department and talked to Colonel Dankworth. He said he had found the problems to be basic problems that have been around for a long time. He said law enforcement agencies were not facing the outcries of the people. They just keep on doing their jobs and not thinking about what the people are doing.

He said the people from Eagle River were not happy, and, in fact, were sad and upset about what they feel has been taken away from them. He said they somehow forget that they are the voice of the people. The people there want justice. We don't want the burglar on or in the street. The judges

are not doing their jobs and the public defender is chosen to be the excuse. Mr. Malekos said that he heard the public defender tell you that the motorcycle group--they knocked out my front teeth. Told about what took place in his place of business. The police broke up the disturbance. I was further threatened. I would like to believe that this is the USA. You seem to be tying knots into the system. He said he heard someone mention communications. Why aren't the judges putting these people in jail and keeping them off the streets. I have heard liberals and conservatives. We are all saying the same thing. We just haven't gotten to the problem. Until you get to the crux of the matter there will be no progress. You have that power here in Judiciary so don't ask me what to do. Also, don't make me live with them. I have chosen to be a good citizen, pay my taxes, am a voter and believe in the constitution. Are we dealing away our human rights? I don't see the solution by passing any of these bills. It is a step. The thing is, the judge has the ability and power to take a man off the street--this is not unusual. One of the bills says not to allow cruel and inhuman treatment. It is your job to get him off the street. If you don't, we will see that you don't come back here to represent the people. Then we will get somebody who will take care of these matters. He read a poem written by a little old lady while making candy in her kitchen. He asked the committee if we couldn't protect our own people. He said the people in Eagle River are telling their children to protect their ownselves.

He said that he hadn't heard the term "hardened criminal". There are a lot of them. Do I have to pick up a gun and kill somebody? He said the people from Eagle River are not apathetic but they had sent him to speak for them. They will write letters--but what is the use--nobody listens. Many people throughout the state are disturbed, too. You will hear talk about judges because people are unhappy with them. Malone asked George to keep one thing in mind about this committee. We don't know the answers. That is what we are trying to find out. He noted the information of Mr. Sheffield on yesterday. This was new information. We are picking up a lot of information from these hearings. It may mean that a lot of new legislation will be enacted. It will result in some laws directed to the problems being brought out. Malone said that he had not experienced being victimized. He noted that the parole board had conducted 14 hearings in one day. He felt there was a problem there. There is also a problem in the judges section. He didn't think the answer would be contained in one single piece of legislation. The buck doesn't stop with the legislature, but certain things depend almost entirely with it. The funding required for the changes in proper police protection and prosecution lies with the legislature. We will probably be able to prepare concurrent legislation--better than we have to remedy some of these things. There has been consideration to setting up an office in EAgle River because we have seen proof that some of the things that the police are doing is not the will of the people.

It is evident that what we vote on here should be of a high moral standard.

Banfield said that she represents this community so she can understand the problems as presented. The parents are screaming about law and order--they say kill all the rest of those kids--but when it is their own they want them let off. Take the drunk driver--I just had a little too much to drink--and wants to be let off. She said there was an attitude about today that says "Hit everybody else hard but let me and mine alone." She said that the public has the responsibility to be ready to stand up and take their own medicine.

Mr. Malekos said that their efforts had been so futile. He said that it takes two sides to create a problem. He said that the younger people did not respect the police officers. Banfield asked whose fault that was. He said that it was the parents. He said that his father rehabilitated him about three times a day. He said that he had overheard teenagers say they couldn't wait to get out of the house. He said that is his house there was no such thing--they respected each other. He said he wasn't any different when he was young--swiped hubcaps, etc. but when a police officer pulled up along side they stopped. What you really worried about was what would happen to you when you got home and what would the neighbors think!!! You can't win any respect when you are arrested one day and turned loose the next. Rehabilitation programs are not very good. He asked the committee not to forget the people who are good.

Mr. Malekos said that the delegation from Eagle River supported what Spencer and Hibpshman said in their presentation. They know more about what is needed. The only first-hand knowledge they had was what had happened to them at Eagle River.

The elderly gentlemen from Eagle River said that he had never had to lock a door in his life up until now. He said that now he has a gun in every room in the house,in the barn, and in the chicken coop. Everyone is loaded. He said that his wife was alone this night and wondered if anyone on the committee knew what it was to live in fear. He objected to the public defender's office handling cases for those committing the crimes. This is a sore subject with him. He didn't think it was fair for the criminal to get all the benefits. They are represented by attorneys and then we have provided a 5-1/2 million dollar "country club" for them at Eagle River. We are subsidizing the criminal in his life of crime--even gets his laundry done. All of this money is coming from us--the private citizen. That is no prison there--it is just a "country club". He mentioned the efforts of the sportsmen in their attempt in taking of game out of season. The people are disgusted. They won't even appear as a witness against a murderer because they just let them go again. He said that one man had a job with civil service and he sold meat on the side.

The evidence was available so they took him to court and "Red" was a witness. He took annual leave. The first day the case was postponed. The next two days were spent in selecting a jury. It took five days before the trial started. The man was found guilty by the DA and the judge turned to the man and gave him a $500 and then asked the person if he could afford the fine. He said that he couldn't so the judge suspended the sentence. The next day this same man was out on the town bragging about this. It just doesn't pay to let things like this happen.

He commented on naming juveniles. He felt the young person could be helped more by making known who they are than keeping all of this quiet. Everybody could watch him and tell him to straighten his ways. There are different view points on this but that is how he feels.

Malone asked about the fish and game violation. Was the individual represented by the public defender? The elderly gentlemen said that he was. Malone noted that superior court judges comes up on the ballot every four years for confirmation. He told Mr. Malone that four years ago nobody knew who the man was so they voted for him. Banfield noted that we have plenty of laws but that they need to be enforced.

Jack Arnold, with the Eagle River delegation, was next to testify. He said that they were trying to represent the voice of the many people who wanted to come here and speak but couldn't be here for one reason or another. He said that he knew we realized that the majority of the public input is from people who are able to spend the money to come before you or are sent by a group. He wondered if the committee realized that there are things happening in areas of the state that they don't see. You are not familiar with our problems. I was indignant--had a bad taste in my mouth--over the things that have been happening in my community. This comes from loss of my own self-respect and what I know is loss of respect to the people who represent us. He said that he had come to the place in his life where he is fairly well disciplined. He said that he had been raised up like everybody else. He said that the things close to his heart --examples like reading in the paper that our society has debased itself to the position where we read of the education of a 9-year-old child in order to escape from a rapist. It was very evident that we had a problem and he was not proud of that. Imagine the little old lady--60 years of age--with a shotgun. She is of a pioneering age. There was something that George didn't tell you. She said that if anyone hassled her again she would send them back to Jesus. Her heart is broken because people do these things to her. You see a little old man go on patrol to help protect his neighbors and their property. He had no business doing this. He was about 67 or 68, frail of build. He also had a nervous condition. Out of respect for the law and the things he felt was right he would not carry a weapon in the way of a firearm. In his insecurity he did carry a tire iron and keep it handy. Can you imagine feeling the importance of this enough to do it.

It was respect that made him not carry the firearm. Fear made him have something. I know you don't see this. You don't live the life that is in close association with so many of the people out there. The person who couldn't come here because it would cost him a house payment and take him six months to make up for the loss. That is the one you won't hear from. These are the ones you should be proud of. They are the pride of the country. This feeling that I have is that feeling of debasement because I am part of this thing that is going on and not doing anything about changing it. He wants the committee to sense his feeling. How do you do this? There is more to it than just coming here to Juneau.

Mr. Arnold said they had not just come here. They had gone to the law, to the prosecutor and to the Judiciary. They just passed the buck. Now he has come to the Legislature hoping for some relief. He said they had found two very opposing things. He said he had found that each person by his own proclamation saying that they were a saint in white robes. Just the same, they passed the buck saying that each one of the other is the accused and they were the black hats. He asked if there were a bunch of saints or black hats? He said that he knew someone had to be wrong. He felt that we all shared a great deal of the guilt. Everyone is like himself, absorbed enough in their own life to have paid disrespect to society. The desires for gains, possessions, positions, etc., overpower all of our aims. This doesn't make you the "bad hats". It doesn't make the other guys all have a grey hat. He said he wore one, too. This state belongs to the citizens of this state who are in good standing. We have a right to property and respect. We are governed under the concept that if we will support and cooperate with the authorities they will govern us in a manner worthy of our respect. One of the first things to give the people is protection. This is one of the basic things that we can pass on to those that will take our place. The greatest loss we got in the Eagle River explosion was to our youth. It is not just the material things we lost--it is the youth who will have to make decisions for the good of all as they take over from the ones in office now. We have better communications now. This has tended to create more problems. Kids from the populated areas can drive out to Eagle River and do their "thing" and then get out. The people are the ones that suffer in fear. These young people have their own opinions on things. They speak out vocally and they will soon make up a voting block. As it is they offend the ones who have disciplined them. The young people also recognize leadership. Mr. Arnold said he didn't know how to go about bringing back self-respect. He said he knew you couldn't just push a button. As to rehabilitation, if you are going to let these people out, then you had better see that a good job is done. He would like to see a conscientious effort started and continued to a reasonable solution to this problem. He would like to see discipline, some mandatory sentencing--the judge knows best what the needs are. At present, the judge has failed the conscience of the good citizen. The judge never listens

to individual people like this committee does. He said that he believed that every department in the justice system shared a part of the guilt in its failure. All need some measure of reform. Beirne asked how many troopers there were in the Eagle River Area. Mr. Arnold said this area had 5% of the population of the state. They have always had one trooper to patrol the main highway. They had one that would come to the answer of a call. Usually they would come. They had another one for a week or ten days--he seemed to like the bridge for some reason or other. She felt that since there wasn't more preventive protection that might be the reason for all of this. He said he felt that the trooper there did a good job. He misbooks someone once in a while. This is an excusable error. Beirne asked if they had citizens traveling with the trooper. Arnold said that two of the citizens go out together to do their patrol. They go out for observation purposes and also to be observed by others. We think this will be a deterrent. Malone noted that this area represented 5% of the population of the state and had only one part-time trooper on patrol. He said they had the same population in Kenai and have from 12-14 municipal officers and 4 or 5 state troopers. This definitely seems like a lack of prevention.

Meeting adjourned at 6:55 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, February 15, 1974

Chairman Tillion called the meeting to order at 3:15 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Tillion, Orsini, Chance, Banfield, McVeigh and Berry.

HB 41

Fifth Judic. District

Malone announced that the prime sponsor for HB 411 - Establishing a fifth district of the Superior Court - could not be here today. Malone presented written testimony prepared by Rep. Phillip Guy. It was felt that the people being served by the judge should have a louder voice in the confirmation of the selection of that judge. It is a known fact that the native villages must accept the western concept of law. This bill attempts to bring the law closer to the people.

Peter Page, representing the North Slope Borough, testified on this bill. He was in favor of same. He felt that justice should be brought closer to the people. Some of the problems are distance, including time and miles, etc. He said that he didn't have time this morning to make a detailed presentation on figures. He said he had gone to the Governor's office and received some population statistics. The population involved was somewhat over 18,000. (Orsini arrived 3:25) Under the new districts that have come out there is 11,000 population. He said he remembered when there was talk about putting a judge in Sitka. Sitka was an island community connected by a waterway. It did have scheduled airline service, though. This is not true of the district of which we are discussing. There are many miles separating communities and there is no scheduled air service. You have to travel to Bethel, Fairbanks and then on to Nome. They obviously have a geographical kinship. They do have some of the same problems as Sitka.

This is an area worthy of some consideration. The primary function of the superior court is to fulfill justice. Under the present system, juvenile justice has to be handled once a month or handled by a district court judge as a master of the court. Judge Guinn in Bethel is excellent. The concept is that the court should handle this. It is felt that justice delayed is justice denied. In the bush areas where communications are difficult there are many cases that should come before the judge which just don't. It is almost impossible to take a child of young years who is guilty of something to transport him or her to the larger population areas. As a result, these people don't have access to juvenile court unless they get into trouble while the judge is in town.

Chance suggested basing judicial districts on the election districts of 1959. They checked the map. Mr. Page said this map had divisions as of July 1, 1973. He said there were also figures for 1970.

Fifth Judicial District

Chance asked if numbers 13-17 were included. He said that 13 was not--this is Kodiak. He said this was a rough sketch. He said he prepared the chart with the number of judges and their locations. He put an "X" where Bethel was located. He felt it would be a welcome relief to the third district to not have to take these cases.

HB 411

Banfield made some comments about when Nora Guinn was appointed. She is doing a remarkable job. She speaks the language of the people and understands them. Banfield felt that if we put a superior court judge in there they might lose their rapport. She wanted to know what would happen then. The people trust Judge Guinn.

Page said that he could envision judges in Alaska that would be speaking the native language. He assumed that Judge Guinn's talents would continue to be used, possibly as an interpreter. The concept in juvenile justice must deal with the concept by the judge of general jurisdication trained and seasoned in juvenile practices as the one to handle these cases. Banfield wanted to know if this judge would be a part-time judge. Page said that he would assist in other areas of the state. He said that the concerns expressed which were viewed in placing a judge in Sitka are similar to this case.

Mr. Snowden has asked me to submit that the superior court is opposed to this concept as outlined in HB 411. Malone submitted a letter from Rep. Phillip Guy for all members.

The concept is that justice must be brought closer to the people. Doing this at this time will create a nonflexible boundary when we feel that the lines as now drawn are not responsive to the public needs. He mentioned in the brochure that they don't want to remain as a service area. This arrangement was only set up two months ago.

For a long period of time, Judge Sanders was serving the Bethel area because of his light load. He would fly to Anchorage, overnight there, and then go to Bethel the next day. This was very inconvenient. There was a special meeting arranged with the Chief Justice and others regarding bush justice. This was held in Bethel. This was where service districts were mentioned. What was done was that the public defender and the DA would put people in and to serve the needs and go once a month to take care of their needs just wasn't enough. He said that the service district was working and said they were going to try that for Barrow now. Trying to set up service areas on a basic trial plan to see if we can better suit the needs of the bush and the rural communities by doing this. We need a greater judicial presence in these areas. Judge Lewis has been assigned to the Bethel service area. He said that people were just not being transported to Anchorage for trial. There were 594 cases noted and these are mostly district court cases. We don't have a superior court backlog there now. There are great administrative problems. The con-

cern is for studying the whole concept and they will testify as to what they are doing in this area. He felt that it was precipitous to do this now.

Fifth Judicial District

Mr. Page felt that the people should be served along the transportation lines. The paper noted that the Judicial Council was working on this. Recording districts were brought up at their recent meeting. They also considered the whole problem surrounding the native claims settlement act. Naturally, this will be a tremendous problem for the court system. He said there would probably be about 50,000 land filings. That would be from each of the 13 corporations. He said they were trying to take preventive steps. There is a large recording center in Anchorage and they don't have to do this by district lines. Reference was made to the judge in Sitka. They want the one in Bethel set up the same way. He is travelling most of the time around the state. The caseload doesn't justify staying in one place. It is cheaper than hiring another judge.

Mr. Snowden noted that juvenile justice is a problem. He felt that being in the area once a month was enough to cover the needs. He did agree that redistricting was needed in the state. He thought that even having no districts might be better. He felt that a fifth district would compound the problem. He asked the committee to wait for the study and see the results. Malone asked when the study would be completed. Mr. Snowden said Mr. Hicks would be better able to answer that. Mr. Hicks said that it would be a month to six weeks. He said he realized that it was important to get it out as soon as possible. He said the Judicial Council endorsed the whole concept of judicial districting. Mr. Hicks said some had asked what the functions are. He said they are far less than what most people think they are. He said that at the time of statehood every agency operated by using the judicial districts. There's only one that uses them now and they aren't using them very much any more.

One of the things the council does is define the administrative unit for the presiding judges and the other is for the confirmation area for the election of judges. Mr. Hicks said that he attended a meeting in December and they assigned a single judge to come out once a month with the plan to hire a full time clerk and improved library space; saw where they would be able to provide better service.

Mr. Hicks gave an example of a person in the Wade Hampton area being arrested--this is the second judicial district. He would be brought in to Bethel--this is the fourth judicial district. Then he would be taken to Anchorage. In Anchorage the person might be released on bail. If the service areas are redivided it will help a lot.

One of the things important to Mr. Cooksey is in relation to the energy crisis. When dealing with the energy problem in Seattle, they promptly set up an office in Alaska. They need to do this for the people of Alaska for justice. He said they supported a fifth judicial district.

Fifth Judicial District

Attorney General, Norman Gorsuch, testified in favor of this bill. He said that this is consistent with the policy the governor had to realign the four districts. He felt that the points made by Mr. Guy in his brochure and Mr. Page could be seconded. He said they think that the creation of this district will bring the judicial system closer to the residents of the areas and allow them the authority to locally confirm the judges and have some involvement in the judicial system in a direct way. In addition, the development of a fifth judicial district will permit the availability of another judge to help carry some of the backlog that occurs in the larger cities. For these general reasons the administration does support HB 411.

Malone mentioned a comment by Mr. Hicks. This was with regard to the improvement of the administration of justice in the Bethel area. The bill didn't necessarily address itself to that because the judge is only going to be working there depending on the case load. He said he agreed with that. He said that it brings one more judge into the system. He said he wasn't sure that the system needed one more judge.

Malone had some questions about the study. He wanted to know that we would get the results of the study before this session is completed.

Orsini asked if this just referred to the boundaries and how responsive it is to the needs of constituents that are served. He also wanted to know if Mr. Hicks was looking at this from the standpoint of the election of judges rather than appointment. Mr. Hicks answered by saying how could the people be served any other way than by districts? There was also some discussion about the present boundaries--are they serving the needs in the most efficient way. Chance wanted to know if they were talking about eliminating all judicial districts and leaving it up to the court system so they could make any changes they needed without going through the legislature. Mr. Hicks said this is what Public Safety does now. It is working for them. Chance noted that the constitution says that it shall be done by law. She said it was questionable whether or not it could be delegated to the court system. Mr. Hicks thought it had to be handled by the legislature.

Chance said that since the courts were looking for flexibility she couldn't see that they would object to a fifth district being created now and knowing that in future legislation this could all be changed--what would be wrong with that. Mr. Hicks said he was not objecting. What he was saying was that the things noted in the letter are not being served by this particular change. Chance asked if there would be

additional needs. He said that there would. Chance asked about the confirmation. Was there any need to change the administration. Hicks said you could use election code or judicial district. Banfield asked Mr. Snowden how long the service area concept had been in operation. He said it had been in effect for two months. He said the facilities won't be complete until March. He said they had been sending out judges since December. He said the court system was not saying that a fifth district was bad. We are only saying that it is precipitous at this time. That would be until a judge would be needed full time in Bethel. Banfield asked that by the next legislative session that Mr. Snowden would have completed his testing of this concept. He said that was true.

Fifth Judicial District

HB 411

Malone said he didn't think that the constitutional restrictions are a great impediment. Hicks said he would like to see them create one judicial district for the entire state and then the court could decide about the service areas. That is an alternative rather than changing the election code.

Discussion was held on a house joint resolution (no. 85). Tillion said that this is a resolution that covers the method of redistricting. One of the issues that the court has called to our attention is the text of Article XI of the State Constitution and legislative apportionment. Many such proposals have been declared unconstitutional as a result of our decisions or because of national decisions. The areas range from population base to what boundaries should be drawn. Also there has been some problem with defining terms. There has been recent litigation; single versus multi or noneat all; the question of the governor's power; senator's term of office; composition of the Governor's Reapportionment Advisory Board to name a few. This still leaves open the question of the judicial districts. For quite a number of years the state has been using the state election districts for other uses rather than just elections. For example, state employees' salaries have been based on this. Also, liquor licenses are granted under this arrangement. These boundaries are no longer in force. One of the committee members asked whose idea this was. Tillion said that it was Mike Miller's. M. Miller asked the committee if they would have this resolution introduced as a Judiciary Committee resolution. It was submitted as from the committee by request.

Redistric.

HJR 8

Law and Order

Discussion turned to law and order matters. Mr. Robert Wagstaff, legal counsel for the ACLU. He stated that these were his own opinions. He said that he had 11 years of law background. He worked on a prison project while in law school at Leavenworth. He worked as a prosecutor in Fairbanks in 1967. Since that time I have been in private practice as a criminal defense lawyer. He said that he felt that the essential frustration stated by so many of the witnesses, like those from Eagle River,--he shared their frustration. He said that the solutions proposed do nothing. They really aren't solutions and do not even address themselves to the real problems. He said the ones expressed are emotional or fear reactions and to think that the solution is to round

Law and Order

up the people who need to be locked up. Then somehow you feel that the problem will cease to exist. He said this is not new philosophy, it has been practiced throughout our history. It will not change things now. He didn't think that we were in an unusual situation with respect to crime as opposed to what has happened in our history and to the world. It just happens to be more prevalent at one time than another. We are conscious about it, everyone knows about it. He said that he questioned the statistics that show that we are now in a major crime revolution and that the criminals are taking over socially. Mr. Wagstaff said he just didn't think this was true. He said this was not his opinion only, but others shared his view. He recommended a book that was informative on this matter. He said that Ramsey Clark also wrote a book about how misleading statistics can be. He said this was particularly true before legislative committees for the purpose of obtaining monies.

On reporting crime--if one wanted to increase the crime statistics and interview people and establish better methods of reporting this would show crime to be on the increase. This is one of the fallacies of the FBI. He said that FBI records were unreliable because they give no indication as to what is happening in the world. He also said the Chief Hipbschman's statistics are meaningless. They don't answer the questions of the committee. You have to ask what the statistics represent. He gave an example of the statistics on rape: Is this bare fact that rape has increased 50%? What are they saying--is this only reporting or is this convictions or what. The only meaningful figures would be the convictions. Otherwise, this is just giving you a report. Even if in the midst of a criminal takeover of our society--what is the proper solution or how will you correct what is going on? The law and order bills are not addressing their contents to these problems. He felt this package would tend to increase crime. He made mention of Chief Hibpschman's statistics in that 80% of the crimes are being committed by persons who have already been exposed to the criminal justice system and placed in jail. It is not a question of finding the persons who are criminals and arresting them and convicting them. This is being done. The problem is the repeater.

This indicates a failure of the system to change anything. This is the crux of the problem. If you want to make an attack on criminal activity in the country and in the state you have historically only addressed yourself to new laws, increasing police, etc. This doesn't lower the crime rate. Then you have placed emphasis on corrections. What happens to the person after he has been convicted? When you consider that 80% of all felonies are committed by persons who have already been exposed to rehabilitation. There has been no effort to alter the individual's behavior. There has never been any emphasis placed on this aspect of rehabilitation in this country. 95% of the funds go to custody--if you doubt that spend some time in the institution. It is really only custodial facility.

Law and Order

The basic concept of penalties was a humiliation of the individual until that time the persons were punished physically. The person would be thrown into solitary to think about how wrong he had been. After this treatment, they were supposed to see the errors of their ways. This would purge the devil out of them. He didn't think that anyone thought that way any more. He said that it appeared that corrections did the opposite of what was expected, which is to reduce criminality in our society.

These people go from society--being segregated--placed in confinement away from the society in which they are supposed to function; and are placed in an environment that is repressive, they have no rights, no respect--go there and see for yourself. Place yourself in the position of someone in jail. See if you would be influenced in a positive way. He said testimony showed that the witnesses wanted the criminals to stay in jail longer--this makes it a stronger likelihood that they will be in there. Take a look at Attica. This is a typical American prison. You all know what went on there. This is a bad type of environment. What would cause a guard to shoot a prisoner when they have a chance? It must be the environment. The idea that someone is going to respect someone by being totally punished and dehumanized and tortured physically and mentally--it's just not going to happen. As far as punishment being a deterrent to crime--the idea that because if I do something I may go to jail is supposed to influence me. The reasoning is that it therefore should also influence others but this is simply not true. Take for instance Fish and Game violations. Strict laws would probably be a deterrent as it would be those who drive while under the influence of alcohol or drugs. The law would probably have some effect. These particular things are while collar crimes and are totally different from the murderer. You wouldn't say that someone driving while drunk was not making a choice to be a criminal.

This is especially true when people think that all things should be equal. You see someone living in $100,000 house and decide that is what you want too so you embark on a life of crime. These people come from poverty, they have a history of short lifespans, diseases, come from broken families all of which indicate a flaw in the social system. These very conditions cause some to have no respect for the laws. Then you want to put these people, after committing a crime, in a totally repressive situation. This is not the remedy.

Mr. Wagstaff said the only thing that he believed that could be done was to focus attention on corrections. What happens to them after they are found guilty--he said he didn't have the answer. It is plain that what we are doing now isn't the right thing. He said that it would take a lot of money if you were really serious about reducing crime. On halfway houses--there have been some failures but he things more could be done in this area.

Orsini said he agreed with Mr. Wagstaff on one point and that was that statistics are not always accurate. This depends on who wants to prove what. Malone said there was no question that there needed to be improvement in rehabilitation. Wagstaff said he felt we should give attention to preventing crimes in the first place. There doesn't seem to be any programs of crime prevention mentioned by anyone. The first thing you would have to do is isolate causes of crime. It is evident that these are not conscious choices. These are complex social problems usually associated with poverty. Malone said he didn't think it was true that crime is always associated with poverty.

Law and Order

Mr. Wagstaff said that there was no absolute cause for crime but that each case has its set of causes and circumstances. He said that all he was saying is that we are talking about crime collectively--muggings, rapes, crimes against the person, thefts of property, etc. The people involved are not wealthy. (Beirne arrived 4:40)

McVeigh said he felt that the field was big. Poverty is the cause sometimes as is true that wealth is sometimes the cause. Certainly there isn't any answer. As to preventing crime, once someone is convicted of a crime. you seem to reject the idea of incarcerating the individual, but that in effect prevents further crime by that individual. The most common type would be those who commit robbery. If you put a man away for a couple of years he won't be able to commit any robberies during that time. In the absence of finding a cure for these people we are taking him out of society. It would be wonderful to restructure the system to rehabilitate people so they don't commit further crimes. That is no easier that finding out why he commits the crime in the first place. McVeigh felt that there should be stricter sentences--say serving at least 1/3 of the sentence as found in CSHB 511. This will take care of some of our problems.

There may be some bad effects from this legislation. The people we are trying to get at are the people who are making a living by crime. He gave an example of a man knocking off 9 houses in a day--he is a menace to society.

Mr. Wagstaff said that his main point was that when a man first came within the system for the wrong that he had done that there should be more to it than what jail embraces today. McVeigh said that the short term answer would be to put him in jail to protect society. Orsini asked about shorter sentences but being more severe--getting back to the work gang concept. Tillion commented on the statistics of crime being committed by the very poor. He said that during the looting in Chicago it was learned--and they kept records on this--that two-thirds of those arrested with major articles in their possession were in the middle income bracket.

Law and Order

Banfield said that Mr. Wagstaff should remember that the ones we are talking about are felonies where someone has been tried and found guilty. This doesn't deal with the hundreds of cases that are not solved. Mr. Wagstaff again mentioned the book by Ramsey Clark and quoted some statistics from it. On page 195 it said that 80% of felonies are committed by repeaters or persons who have been involved in the criminal justice system in some way.

The committee turned its attention to HB 391 - Disorderly conduct. Section 3 says a "person of ordinary sensibility".. What does that mean? It seems that this would be infringing on a person's free speech. Who determines this? It was felt that this bill should be drafted tighter. Tillion said he was open to suggested language.

HB 452 - Use of firearms during commission of a felony. McVeigh said that it was impossible to have mandatory minimum sentences. This would remove the discretion of the judge to consider the merits of each particular case. There is also the question of how the accomplice would be affected with this law. He could possibly be dealt with as a principal. If the accomplice had a gun the other person would be subject to the same penalty. This bill needs more work.

HB 460 - Assault and battery on a peace officer. There was unanimous consent that this bill was too all encompassing. Making this act a felony was too strong a sentence. There are occasions when a drunk or an old lady in an emotional situation might hit an officer and you wouldn't want them to be charged with a felony.

SSHB 511 - Release on parole. This relates to the 1/3 sentence being served. The judge now has the power to say this when sentencing a person. This is based on the theory that incarcerating will be helpful. McVeigh didn't think this was a valid theory. Tillion the reason for this was to keep these people off the streets.

Tillion noted that you would lower the statistics if you kept the people in jail longer because 78% of the additional crimes were committed by repeaters. Orsini said that this wouldn't alter the crime pattern of the individual's life style. McVeigh said that was true. Mr. Wagstaff felt the individual would increase his criminal activity if he were held in jail longer.

Beirne said that she was mainly concerned with taking away the discretion of the judges. She also felt that we should have a better trained police force. Also better rehabilitative programs. When you have people robbing the neighborhood night after night there is no doubt but that you have to do something to protect the citizens. She said she was particularly concerned about crimes against the person--rape. Banfield said that she was convinced that crime was on the upswing. People never had to lock their doors before in Alaska. Meeting adjourned 5:25 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, February 18, 1974

Chairman Tillion called the meeting to order at 3:10 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Chance, McVeigh, Malone and Randy Berry.

Business Loan Elig.

HB 495

The first item for discussion was HB 495 - Small business loan eligibility. Tillion stated that in present law a person has to have been in business in the state for at least three years. He said this bill tightens it up even more by requiring that they show financial stability and good character. They also have to have sufficient collateral and know about Alaska's economic conditions. Randy said that the present law would not allow a loan to someone just starting up a new business. Randolph agreed with Randy stating that loans have been denied to a businessman on just this part of the law. Malone said he felt this was a good bill. He did ask Mr. Randolph about the first phrase on "establish or demonstrate good character"--who was going to use this? Randolph said that Legislative Affairs tried to describe what they thought the loan officer should look for. Tillion said that the Department of Commerce also wanted this part left in. Randolph said that the main thing was to remove the three-year clause.

Malone moved to pass this bill out of committee with a "Do Pass" recommendation and asked unanimous consent. There was no objection and all present signed "Do Pass".

Interest Rates in State

HB 497

HB 497 - Interest rates charged in the state. Tillion said this takes the lid off of the over $100,000 category. This leaves everything else attached to the fluctuating system that we have now. Randolph noted that this also takes care of the expiration date, which is April 15, 1975. Chance asked to have this measure postponed until our next meeting. There was no objection, so ordered.

Postpone. Legal Proceedings

HB 635

HB 635 - Relating to the postponement of civil proceedings when a person is a member of the legislature. Malone asked to have an explanation of the difference between this bill and the one that the governor vetoed last year. Randy read from the governor's veto message. He said it was actually the same as HB 412 from last year except that the governor felt it was extremely prejudiced to the person who might be under extreme hardship because of the postponement. HB 412 was absolute and said there had to be a continuance. This makes it possible to have flexibility where there would or could be shown unreasonable hardship, then the case could not be continued. Randy said the governor wanted us to make a less prejudicial bill this year. That is why instead of making this absolute he added that unless it would cause unreasonable hardship to another party that it could be continued. This was put in on page 1, line 17; page 2, lines 1 and 10. They would grant continuance unless one or the other of the parties objected and gave some grounds

Postpone. Legal Proceedings

for unreasonable hardship to him. This would depend upon the circumstances. McVeigh said he thought you should put some guidelines in about who would make the determination as to whether there was hardship involved or not. Randy said that was why he intended but he could say that this would be on the finding by the judge. This would be a fact-finding by the judge. Chance said it was already possible to do this. McVeigh said that was true but this will give you definitive periods of time to prepare and lets you know when you can expect trial. This will tend to give notice that if you are in the legislature you will ask for a continuance. Chance felt that this was a matter of practice already. McVeigh gave an example of some of his cases that were not handled this way. He said he had to hear motions on some of his cases while he was serving with the legislature. They did-not grant continuance in Ed Barber's case last year. McVeigh said there are times when there is a need for statutory protection. He agreed that there were abuses where a party or a witness is only using this as a front but under this modified statute the judge could see through an act like this. Chance said she wanted to see the language added that would make it clear that the ruling is made by the judge. Malone agreed with this, too. Tillion said that a committee substitute will be prepared and brought back before the committee. McVeigh will carry HB 635 on the Floor.

Mr. Randolph will carry HB-495 - Small business loan eligibility.

Interest Rates in State

There was a discussion of interest rates. Malone said he would like to see them tied to the federal rates something like Mr. Hillstrand had in mind. Chance said she would like to see a 3% difference between what a bank paid for savings and what they could charge for interest on loans. Tillion said he liked that concept, too. Chance said that as long as you say this is the interest that can be charged within the state, there is no problem with the federal government. Randy said that now there is a 9 or 10% limit. Tillion didn't think there would be much possibility of getting a house bill through the senate. If it was a senate bill he didn't think it would get by some of the senators. Tillion felt that if the committee wanted to work on this some more they could remodel any one of the bills on this subject that was in committee. Chance felt there was a possibility that you might get the banks to compromise. Maybe if they didn't think they would get the extension date they might agree to this kind of an interest bill.

Meeting adjourned at 3:45 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, February 20, 1974

Chairman Tillion called the meeting to order at 3:15 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, McVeigh, Malone, Chance, Banfield, Beirne, and Berry.

Interest on Insurance Settlements

HB 91 & HB 17

The first item for consideration was House Bill No. 91, Interest on insurance settlements. The Division of Insurance has taken the CS for HB 91 and their position is that we appreciate what is being attempted here. They felt that the imposing of the interest penalty after the time prescribed in the bill will not accomplish what it is supposed to do. This will show up in the increased premium to the insured party. It is self-defeating. The better approach is through HB 178 according to Mr. O'Shea, from the Division of Insurance. HB 178 is the unfair trade practices bill. This is under section 8 which lists a comprehensive procedure for taking care of insurance plan payments. The difficulty in imposing the penalty specified in this HB 91 is that insurance claims generally vary so greatly that the simpler ones can be done speedily but the more complicated ones can go on for years without satisfactory settlement. For this reason, we have not supported this proposed legislation.

Don Koch said he didn't know the bill title, but that it is in the Commerce Committee. This is relating to the regulating of insurance and has an effective date. It comes to this committee next. Dr. Beirne asked if we shouldn't be taking both of these bills up together.

Mr. Koch said that this was more comprehensive on what HB 91 speaks to. If an insurer uses one of the unfair acts listed here he is liable. Banfield asked if we could take the unfair acts that applied to this problem.

Mr. O'Shea said he wanted HB 178 to be considered in its entirety and not take this section 8 out. We are referring to the fact that until HB 178 were adopted it would take care of CSHB 91 in a better fashion.

Mr. Fred Eastaugh said he had checked with his insurance people and he was informed today--I think most of the committee knows Mr. Slaven--he was concerned about the CS. He checked with New York. To their knowledge there is no counterpart to this legislation that is proposed in any of the 50 states. He said he thought there was good reason for that. Basically the relationship between every insurer and its insured if naturally one of contract. The basis is that the insured has to pay on the basis of liability. This can only be established when the loss has been ascertained. This bill is very wide in scope. This covers not only automobiles, but all forms

Interest on Insurance Settlements

HB 91 & HB 178

of insurance such as fire, marine, etc. This is saying that there will be an increased cost. Once liability is established and the amount of damages under the contract legally liable to pay, then there has to be six per cent added to that from the date of notice of claim under this particular legislation. In fire insurance it is customary for a letter of notice to come out or a phone call and then you show proof of loss. Fire is very touchy because of the sometimes frequent arson complications. The purpose of this bill really attacks the accepted contractual relationship between the insured and the insurer.

This will present a cost factor that will be imposed on all policyholders in all types of insurance. He said he felt that the modification of the competitive market in insurance will provide a proper motivation for insurers to pay their claims promptly. When that fails, then there is a vehicle by which the one that was deliberately delaying payment is subject to the regulatory control of the Department of Insurance. This is why he said they would prefer to have the unfair trade practices act in HB 178. The fines that are assessed under that go into the state treasury rather than to the insured who has been hurt by the delay. Further, HB 178 is based upon the modified act of the insurance commissioners. This is a nationwide approach to the same problem that is facing this committee. They are looking at some kind of vehicle so the cost will be laid on everybody.

Randy asked Mr. Eastaugh if prejudgment interest had an effect on premiums? Is there a distinction between interest on settlement and prejudgment interest on suits that actually went through litigation? Eastaugh said he couldn't answer that directly. He thought that probably the answer is that those that reach litigation are such a minor proportion that it wouldn't be counted. The impact of this bill is on a different set of circumstances. This is a lot different from where there is just some ornery adjustor that is being dilatory and he agreed that they should be hit hard. He felt the department of insurance could answer that better than he could. Mr. O'Shea said that Mr. Koch could probably answer that. This was on prejudgment interest. Mr. Koch said this would enter into the rate-making process. It is such a minor part of the overall thing that it is almost unmentionable. As far as the effect of this bill on the rates--you can expect rates to go up at least on the interest rate on the claims. In HB 178 this would have a lesser effect. There would be fewer companies that are dilatory in their settlements. HB 178 addresses the companies that are acting unfairly with the consumer. There are a great many companies that pay their claims fairly and quickly. There are just a few that don't. All you have to do here is deal with the one out of a hundred that fails to pay the claim.

Interest on Insurance Settlements

McVeigh asked if we were really talking about situations of delaying payment knowing that the litigant--because they know the individual--will settle because he needs the money. Mr. Koch said this was covered in HB 178. McVeigh gave an example. He said he had a claim and Fred was representing the insurance company. He said he felt he could say it would be a year and a half before you go to trial. Mr. Eastaugh said you can get prejudgment interest. Don said this would be true if the insurer does this at once. Tillion said maybe you took four months to pay. Chance said it takes longer than that to get a hearing. Don said there was a problem on fish boat claims because the fishermen have time to get out of their jurisdiction. This goes under marine insurance. The people who do settle these claims are often not subject to the division of insurance. He said there was a bill that would bring in marine surveyors. This will speed up settlements.

McVeigh said he was not familiar with HB 178. It doesn't seem like from what he has heard that it will be all that effective. You can't show there has been delay because of insurance companies refusal to pay a claim. He said he was sure that once they have a claim and turn it over to a law firm they are automatically buying a year to 18 months or maybe two years before they come up with any money. They can always settle out of court, though. Don said this was true, because some insurance companies hand their claims to an attorney and settle these claims on the courthouse steps. You can observe the insurer who is doing this and see their pattern--then you can nab them. McVeigh said he didn't think we could second guess them. He asked how you could determine when an attorney was acting in good faith. He said there was a question in his mind as to whether they would be pressured. McViegh suggested that this be amended on page 1, line 13. He said he would like to see something to encourage insurance companies to at least make an offer. If an offer is made and then a difference results between the offer and the final settlement, then the interest would go back to the time of injury. Permit them to mitigate the damages as much as they can. McVeigh gave an example of the Alaska Airlines crash. He thought that most of the claims had been settled by now. Eastaugh said we weren't talking about cases like this. The notice of loss will immediately go to the adjuster--the department will say this happens--it takes the adjuster longer than 30 days to get the proof in the cases. After that you have the conferences--you are adding a cost to the general public on this bill. That is why Mr. Eastaugh is opposed to this bill.

McVeigh asked if this suggestion would be fair in terms of public policy: Increase the cost of premium as opposed

HB 9

HB 1

to immediate or rapid settlement to the injured party. What is in the public interest vis-a-vis these two proposals. Personally, he said he would be willing to pay a little bit more to know that the insurance company will pay the policy within 30 days. This is opposed to insurance he has where his wife and three children could be deprived of his income. He might be laid up for a year or so from injury. This creates enormous economic pressure that will get you to settle prematurely. Unless there is encouragement for fair settlement quickly they are going to take their time about it.

Interest on Insurance Settlements

Banfield asked McVeigh what happens if the claimants get partial settlement. McVeigh said if they turn down the offer of the insurance company which was say $20,000 and then you settle for $40,000 then you would be paid the interest on the difference between the settlements. It is not likely to happen that way with the attorney. He is always anxious to get the thing settled.

Banfield said she didn't want to disagree with McVeigh but she has complaints from people who have been injured and sustained losses and their attorney is holding them up--at least he gets all the blame.

Mr. Eastaugh said he thought that the last sentence in this bill is manifestly unfair. This requires that the offer of settlement would have to be at least as great as the final settlement in order to escape the interest charge. He doesn't think this is wise legislation. It doesn't encourage offers of settlement like under prejudgment interest. You would get credit for that part of the settlement. Tillion said to assume that a person did not receive anything--then if the insurance company makes a ridiculous offer then the person shouldn't lose the interest on the part they could have their hands on. We might have to say if the amount is less no interest is forthcoming. Eastaugh felt you should give credit for the amount of the offer. Tillion said that would be all right as long as they can accept the offer without prejudicing the case. McVeigh said they can't do that. Tillion said the offer would have to be a good faith offer. Otherwise you will just be getting offers for the purpose of saving interest.

Fred felt that the problem is the difference between liability and damages. You aren't going to get any damages until the insurer thinks it is liable under this Act. There are two questions--(1) liability and (2) what are the damages. The insurance company wants to know if they are liable before they pay.

Dr. Beirne, on the last part--this is just a bid for time. Some reasonable estimate as to how close it would be to the actual damages, that's what they want to know. They could also make a small offer just in the period for the offer.

Interest on Insurance Settlements

Dr. Beirne asked why they weren't allowed more than 30 days. She thinks they may need a little more time. McVeigh said that banks are not inclined to loan on what is expected from a law suit and if you are economically affected this really makes it hard. Tillion said he was going to get more information on this. Beirne said she thinks we should address ourselves to the concept.

HB 91 & HB 17

McVeigh will be assigned to this bill and the committee feels they understand the problem. There is a certain amount of public policy involved.

The next item for discussion was HB 574 - relating to the removal of bodies from institutions. Willard Bowman testified in favor of this bill. He said the reason for this bill was--this is special legislation. This deals primarily with the Anchorage area. They have competing funeral homes there. He said that to his knowledge Mr. Moore said they didn't have this problem in their community. What it really amounts to is body snatching. The designation of where the body was to go has been changed. Mr. Hartig will testify to the experiences they have had with the DA's office. Bowman said he was asked to put this bill in because it was an Anchorage problem.

The bill says that the next of kin or the person himself can say where the body will go after they decease. Often somebody working in the hospital or for the airlines, etc., will change the place to where the body will go. In Anchorage they have a coroner's week and they are assigned when it is their week. This is to be rotated. There is a suspect who doesn't abide by this. Bodies have been embalmed and the people get charged for this. Banfield asked if he meant there are one or two funeral homes being discriminated against. Bowman said that one is being favored. They are even going out and getting nurses to do this work.

McVeigh asked what cases would be considered coroner's cases. Hartig said this would be where there was not a doctor in attendance at death. He wanted to go into the background of this. He said he had some experience with the DA's office. He said he worked with the funeral home association under Title 8 in the administrative regulations. He told them it was a problem and they should handle this themselves. This was investigated and it wasn't a matter of them doing it but the fact that other people are doing it. Those not regulated. They are charged by their profession not to go body snatching.

Beirne said that it was because they were having so many problems--that's when the coroner came in. Randy will work on this. There was no objection to the language being cleaned up. Tillion said Randy would find some way we could modify the 24 hour section to allow for a holding of a body and where there are facilities to refrigerate and hold them so that the next of kin may be given three days to decide how the body will be disposed of. If this can't be done, we will prepare another bill. HB 91 & HB 178

Interest on Insurance Settlements

Beirne said that hospitals are guilty of this type of thing with the ambulance drivers showing a preference for one particular hospital. Tillion said this is common in the lower "48".

Nepotism

HB 535 - Employment of relatives of members of the legislature. Tillion said he would like to modify this bill so that the relatives of executives and commissioners are also included. This would include anyone working outside the merit system. Randy will check the statutes on this subject. He wanted to know if we should say only within a given department. Tillion said for the legislature we can say only in a given house. Randy will work on this. HB 535

Meeting adjourned at 4:30 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 21, 1974

Chairman Tillion called the meeting to order at 3:10 p.m. in Room 106 of the Assembly Apartments. Present were Tillion, Beirne, Banfield, Malone, Orsini, Chance, and Berry.

Mrs. Banfield announced that the Department of Corrections was anxious to have the committee come out and tour their facility. This is the Southeastern Regional Institute. The Judiciary Committee meeting will be held at that department February 22, 1974, at 3:00 p.m.

Minor in need of treatment

SB 32

This was a public hearing on SB-32am - Minor in need of treatment. Dr. Rodman Wilson, Chairman of the Legislative Committee of the Alaska State Medical Association was the first to testify. He testified in favor of this legislation. He said Dr. Charles Wallner, Dr. Shirley Fraser, and Dr. Earl Albrecht also were from the Alaska State Medical Association.

He said that for several years the association has tried to get a law in the area of treatment of minors passed. He said they felt that the present version of SB 32am which has passed the Senate and is now in the House is a good refinement of previous bills. We feel that this subject is a valid concern of our profession. They are concerned basically about filling the needs of minors. They are much less interested in the social policies, law, custom, etc. If a minor is sick or injured they are interested in getting him some help. He said that wanted this avenue open to their office so those in need of treatment might come in and talk about their problems. This doesn't mean that the doctors will treat the child without the permission of the family. He said they would much rather involve the family. He said they were more apt to get paid if the family were involved.

The present bill would make the minors consent valid under the circumstances as listed in the bill. This is not a carte blanc treatment--he read parts from the bill. This is for when parents refuse to participate in some situations. Tillion said he couldn't see any situation where this would take place unless it were abortion. Chance noted that this was already permitted under existing law. Tillion said that unless it so stated here, this would antecede the previous law. Dr. Wilson said it didn't and read from the bill. McVeigh noted that minors can get treatment for venereal disease and drug abuse now. Wilson said they only got treatment for VD and diagnosis for pregnancy. McVeigh asked why we put in diagnosis of VD and drug abuse in this bill then. This is on page 1, line 23. This could be stricken. Chance said they wanted to be sure that it was in the statutes. Wilson suggested that you have it all in one place in the statutes. Beirne noted that we were working with the HCS for SB 32.

Tillion asked if this made clear that a refusal stands. Wilson

said it wouldn't. It wouldn't stand if the child wanted diagnosis. Tillion asked about other types of things. Wilson said he didn't think any doctor would be foolish enough to do so if it was clearly understood that the parents objected.

Mi. in need of treatment

Chance asked about (2) on page 1. This says that a minor may give consent for medical and dental services if his parent or guardian cannot be reached or, if reached, is unwilling either to grant or withhold consent. Randy said this was ambiguous as to what is really meant. Wilson said they meant to cover the situation where the parent or guardian would not participate one way or the other. Tillion asked if this would offend the Seventh Day Adventist or the Christian Scientist or Catholic. Banfield said this referred to counseling the minor. It doesn't say he is not being provided with the services. Dr. Fraser asked to comment on this. She said she had seen a case of epilepsy in the school. They counseled the family--they refused to admit the child needed treatment. She said they were not going to force anything down anybody's throat. The boy was nine years of age at the time and has advanced from a "C" to an "A" Student and now takes his medication regularly. Counseling can be included in the treatment of a minor.

Dr. Wallner said he was an obstetrician/gynecologist. He is speaking in favor of this legislation in his own behalf.

He said he was here mainly to express his opinions because his specialty involves the genital aspect of the bill. He said that it had come to his attention that this country or some of its members have requested deletion of the genital aspect of the bill. He said he was here to answer questions because his job revolves around sexuality. He asked the committee to consider this bill on judgment and intellect rather than emotion. He said that if you read between the lines the implication is there that most physicians are moral and ethical but gynecologists are unethical. He said that he takes some objection to this feeling.

The material he had suggests that there is erosion in the American family. Leaving this part (2) in the bill does just the opposite. It gives us a chance to try to objectively help the young boy or girl fit themselves back into society.

As the law stand now it permits me to diagnose pregnancy, without parental consent; VD without parental consent. Things are a little vague as to what position I can take with the minor who is requesting contraceptives. If you want to get down to the nitty-gritty of it, I am a little bit leery about the charge of assault in the case of a 15-year old girl wanting help in this manner without parental consent.

3B 32

Minor in need of treatment

Fred McGinnis, Commissioner of Health and Social Services, was the next to testify. He said there are a number of physicians and hospitals that believe that the law says that a doctor and hospital can treat only the specific things listed and if it is not listed then they won't do it. It is just their policy. He gave an example of an accident. They took three children to emergency at the hospital--family was out of town--finally I called the director of the hospital and told them I would be responsible and signed so they could get treatment. They just wouldn't authorize practical treatment just because of their interpretation of the law that says you cannot do it without parental consent.

McVeigh said he thought that was probably the way it was. Whenever you enumerate things, this is what happens. A doctor treats infants or elderly persons and there are sensitive areas in both types of treatment. Personally, he questioned whether we had to have this legislation, notwithstanding its merits.

McVeigh said he didn't understand what the doctor meant when he said he wouldn't prescribe pills. The doctor said there are some risks. In the accident situation things are pretty well cut and dried--somebody needs treatment right now. Sexuality is not this way. This is an emotional subject between child and parent. McVeigh said he was reluctant to get into the family area. For instance, Christian Scientists, don't believe in medical doctors and other people don't believe in contraceptives. By general law we try to cover the whole law. He said that he may agree with the concept of the bill but would be reluctant to vote for it.

Writing these minor's rights out and putting them into the statutes--McVeigh believes this has a tendency to break down the family unit. VD might be fine but when you get into the whole area that this bill seems to cover--it entails too much. The doctors are asking for us to give them permission to counsel children on sexuality and prescribe birth control pills. He felt this was something between the patient and the doctor. In the absence of a law--then it should be left alone. Chance asked McVeigh if in the absence of specific state statutes doesn't common law take over. He said that it did. Common law considers the children to be the chattel of the parents. There is no criminal law on this and you would have to be charged under a specific statute.

Chance said that assault is a specific charge. Dr. Albrecht commented and said that they are all familiar with what Dr. McGinnis was speaking about. They feel they must have a signature. Under (4) of this bill that wouldn't be necessary.

Girls come in for the delivery of a baby. Treatment of drugs is also handled in a hospital and they always wanted a signature Wilson said this has nothing to do with emergencies. Doctors don't have to have signatures for emergencies. This does have to do with assault. What doctors fear is being charged under the assault and battery statutes. It is illegal to touch

another person. We are not protected from this. He said they were as much in favor of families as anyone but they have a problem with those who don't want to get their parents in on it. McGinnis commented on this and he felt that this bill has something to do with emergencies. It is often the physician who is doing his practice in the emergency room. Treatment begins to take place and if he doesn't get the signature than it is the physician who comes under the gun because he is giving the treatment. Dr. Albrecht mentioned the girl coming in for delivery, but what about the rape case. They say it is very important that this examination be made immediately. McVeigh turned to the definition of assault. Civil assault is the umpermitted touching of another.

Minor in need of treatment

SB 32a

If it is the doctors position--what is the age of consent? Usually between 17 and 21 depending on the state. If a minor comes in and the doctor does a pelvic and the minor is under or has reached the age of consent then you think that he is technically guilty of civil assault. Would this be unpermitted touching.

McVeigh felt that we should rather put in a general law. Saying "for the purposes of medical attention there is no age of consent". He felt this was the best way to cover this.

Dr. Shirley Fraser, field of neurology, testifed in favor of this bill. She said she was more involved with people than with nerve disorders. There are a number of parents around the state that are in such a state that they don't want their children treated. This is not in the emergency field. It does deal with treatment. Tillion said he only wondered about the case of the Christian Scientist. McVeigh noted that if you are enumerating these things it makes the bill worse. We ought to do it one way or the other.

Ruth Harrison, clerk, Open Door Clinic, testified in favor of this legislation. The Open Door has 10 doctors and two staff members and the medical clinic is held two evenings a week. She presented a report to the committee. On the second and third pages of the report are the statistics she presented.

She said that the physicians at the Open Door Clinic are placing themselves in jeopardy by treating these young people. This is especially true when the minor needs more treatment than they can provide. She said there were a number of young people walking around with untreated problems. A great many of these have already left their family. It is their feeling that if they are going to be able to treat these people--maybe they can help bring the family back together again.

She said there was one figure that didn't appear on the sheet. This was that 1500-1800 camped on their lawn this last summer. One-third of them received medical care. They are anticipating a greater rise with the pipeline going in.

She discussed the breakdown of diseases treated.

Helen Finney, representing the League of Women Voters, appeared before the committee in favor of SB 32. She said that the League supported the services for youth that will provide the best treatment for the young. The League feels that providing treatment as outlined in this bill is a step forward. This would clarify medical treatment of minors. During the last legislative session the league reviewed this bill and have therefore given their support to it. They held informal interviews with parents, teenagers, ministers and social workers and all the doctors in Ketchikan except one. SB 32a

Minor in need of treatment

She said they had no objection to emancipated youth or those who are self-supporting to take care of their own medical needs. She said that sec. 2 allows a minor to give his own consent. This also contemplates counseling. This would also alleviate the emergency room treatment situation.

Section 4 is controversial. This is seeking treatment for prevention and management of pregnancy or drug abuses. A number of the young don't seek the parents because they have problems while living at home. VD should be treated and drug problems should be given attention. This doesn't need to preclude the family. If the parent/child communication is such we should have some faith in the agency and the professionals. This doesn't deny the doctor the right to refuse treatment. The League of Women Voters urges passage of this bill.

She said they had a couple of recommendations. HCS SB 32 on Line 21 uses the term "medical or dental services". This should say "licensed medical or dentists".

When you spoke about counseling it was suggested that it be done by a doctor that was licensed. Wilson said that if you put that in you would also have to say "and those who are exempt from licenses."

She also said that some consideration should be given to the payment of services. She said she would provide written testimony to the committee.

McVeigh asked about Line 16, (2). Beirne asked if he meant if we only had that part and didn't enumerate this is all we would need. He said Yes. We shouldn't enumerate the other items. Beirne agreed that that would make a better bill.

Dr. Hedges commented that this is to protect doctor's rights in giving treatment to a child. Say a child of a Jehovah's Witness says he wants a blood transfusion and the parents won't consent to it. We don't want to disrupt a family or a religion but there are a lot of parents who wouldn't give their consent for some reason or other. So you have to say if they don't want to participate that the doctor can go ahead with the treatment. Orsini asked if anybody in the room was against this bill. Dr. Hedges was for it.

McVeigh said he was confused. We are trying to protect the parent's rights and give the child the right to get treatment all in the same bill.

Dr. Albrecht said he was in favor of this bill.

Minor in need of treatment

SB 32a

Dr. Tom McCabe was the next to testify in favor of this bill. He said he was with the Department of Health and Social Services. His job is to concern himself with the public health of mothers and children. He gave some statistics on public health. He gave stats for girls over the age of 20 who had children. He said they are interested in this from the public health standpoint. These children will be subjected to higher health risks and be socially disadvantaged. Many will be dependent upon the state for some or all of their support. We can say that many of these pregnancies are unwanted. Earlier medical care would allow family planning for those not desiring pregnancy and would allow better prenatal care or more extensive care for those that do desire the pregnancy.

From July 1 to June 30 1973 there were 1,151 abortions that were reported. 411 were performed for girls 19 years of age or younger. If occurrence of abortion is an indication of an unwanted pregnancy, he didn't know what was. Sometimes because of barriers to family planning service availability to girls they end up pregnant. Making these services available will help to reduce illegitimate births and abortions in that age group by eliminating the barriers to family planning services to minors. That is why he favors this bill. Chance asked if he knew how many of the mothers put their children up for adoption. He said he didn't know. He said that he handles aid to dependent mothers and many of the children born have fathers present who help out. He said that 68% of the births in Fort Yukon are illegitimate because there is an economic fact of life there. It makes it easier on them to get the aid money.

Dr. Milo Fritz commented on one fact that had not been covered. By the passage of this law you protect these girls from the renegades. Also you have to fight with or against a guilty conscience.

Meeting adjourned at 4:15 p.m.

The penal institution in Juneau came into existence July 29, 1969. The institution will hold 125 men, including women and children.

They average 2 women and children a day.

The cost is $36 a day per man day. Of this $207,000 a year goes to ASHA. That makes the cost of maintaining a prisoner to $26. a day.

80 - 90% of those incarcerated are felons--80% of which are repeaters. (Mr. Huston's figures)

STAFF:

2 full time counselors

psychiatrist--but the funds ran out, and there is not a psychiatrist now.

Most of those in the Juneau jail are from Anchorage.

PROGRAMS AVAILABLE:

Auto mechanics --takes one year, and a license (MDTA) is gained.

welding w/ community college students--at the jail--no license, only experience--course lasts 40 hours.

People in those programs must be referred by agencies such as vocational education or the BIA etc.

AVERAGE SENTENCE SERVED -- 10.4 months.

In 1972 68 people went before the parole board, 28 of which were paroled.

AVERAGE SENTENCE GIVEN WAS 4 years and 4 months, average time served was 11 months and no days.

Reverend Hunt conducts a voluntary Transactional Analysis Therapy Group.

EDUCATION: English and math are offered by an instructor at the jail; The GED is pushed. 11th. grade is the grade average at this jail,

WHEREAS, the national average is grade level 8 or 9.

One inmate goes to the community college under the work release program.

Correspondence courses are available. The inmates maintain the institution; the cook trains those who are interested.

1973--22 paroled, all felonies; 82% have prior convictions, av. sentence served was 1 yr. 4 mos.; 50% of those paroled return. (Huston's figures

The inmates may also get into the ARC-Alcoholic Rehab. furlough plan. The prisoner is only paroled to a plan. Aprox. 35% appearing before the parole board were paroled.

The institution has a weight room for inmates.

The work release program is successful here, but when the inmate returns to his home area, it breaks down.

Mrs. Green from mental health comes in one time a week. Dr. Frieze comes in too (from Anchorage)

RECOMMENDATIONS:

1. favors professional parole board
2. mandatory time to serve (1/3 of sentence maybe)
3. AJIS data - keep track of prisoners, what programs they had and how effective it was.

In '72, 75% of those in jail were felons.

CLASSIFICATION COMMITTEE--asks what the inmate needs, what the institutio has, and does what it can.
counselor,
2 probation officers
1 correctional ofc.

Eagle River may try giving policy making decisions to inmates. GATBY is the general aptitude test available for the inmates--but is not given to everyone.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, February 25, 1974

Mr. Tillion called the meeting to order at 3:19 p.m. in Room 104 of the Assembly Apartments. Present were Malone, McVeigh, Chance, Tillion, Orsini and Berry.

Nepotism

HB 53

There was some discussion on the nepotism bill, HB 535. Randy said that he had a question on "executive" and how inclusive this should be. The chairman said that it was meant to include the governor's office and lieutenant governor's office plus any hiring done from these offices. Malone asked that Randy check out some of the other areas also. Randy said there was a policy question involved as to whether to include employment in other departments other than the one over which the relative has charge. Tillion said he did not want father and son working in the same department. This will be brought back before the committee.

Postpone. Legal Proceedings

HB 63

HB 635 - Postponement of civil proceedings when party is member of legislature. Randy prepared a committee substitute for the committee and the changes can be noted on lines 17 and 18. Previously the language said that the delay would have caused unreasonable hardship. It now says the delay will be granted unless there is a finding by the judge in an administrative proceeding that delay would cause unreasonable hardship on one of the parties. (Banfield arrived 3:25) McVeigh asked if Randy had read the governor's veto message. He didn't have it here, but Randy had considered the message before preparing the CS. McVeigh asked what the court's objection had been. Randy said that it was that the bill did not cite the fact that it involved a court rule. Both the governor's and the court's objections have been met. Banfield moved that Committee Substitute for House Bill 635 be passed out of committee with a do pass recommendation. Tillion, Banfield, McVeigh, and Malone signed "Do Pass"; Chance and Orsini signed "No recommendation".

Estab. Dept. of Trans.

HB 328

HB 328 - Creating a Department of Transportation. This bill was assigned to Malone for research. He was to contact Mr. Bowman.

Fifth Judicial District

HB 411

HB 411 - Creating a fifth judicial district. Tillion said there was a problem on this bill. Mr. Snowden's recommendation was to completely remove judicial districts and have only one. Banfield wanted to know if the Supreme Court was in favor of this. It was noted that Mr. Snowden said that this was one way their problem of districts could be solved. He wanted to overcome the problem of travel patterns. The State Troopers every time there is a transportation change they draw up new routings. Chance noted that Mr. Hicks suggested this type of change and Snowden had agreed that it might work. Malone said he didn't have any objection to this plan, but he didn't want the judges to run statewide in elections. Tillion felt that any area in which a judge spent 50% of his time, and if there were two areas, he would have to win the election in both areas.

Mr. Snowden recommended this, also. Malone added that making judges run for election statewide would not serve the purpose of elections. This would be particulary true if you had a "bum" judge and people in other areas could vote him back in office. Tillion said that the Chief Justice would be here next week and we could have him talk to us about this subject. The chairman noted that we could probably use HB 411 for the vehicle to institute one judicial district if that was what the courts wanted.

Fi[illegible]n Judicial Cistrict

HB 41

HJR 58 - Revising method of redistricting/senate and house. Orsini said this plan takes reapportionment away from the governor and under population derived from decennial census. Tillion felt we should have this as a referendum on the ballot so the people can decide. Banfield said she felt this was unconstitutional because the independents were not represented. Chance said Orsini should look at the mess the other states have gotten themselves into. Malone said that since we didn't like the way things were done, they should let the courts handle it. McVeigh said they are the ultimate authority anyway. Malone asked if there were legislative guidelines on this. Banfield thought there was. Malone thought we might remedy some of the objections by setting up the limitations under which the governor could operate. Orsini commented that you could change the reapportionment board. Malone felt that the committee might be able to define something that wouldn't be in conflict with the constitution. Orsini said that the current method of reapportionment, in his opinion, was not in the best interests of the state. Tillion said you couldn't get a bill through.

Redistric. Sen/House

HJR 5

HB 675 - Imposition of the death penalty. Banfield said she couldn't see anyone being opposed to the death penalty for kidnapping and rape where there were assault and battery involved. She also felt that when a witness to a crime was murdered they should get the death penalty. McVeigh noted that one of the reasons given by the DA's office for not using the statute on increasing the penalty was that you committed the crime under one statute and were being prosecuted under another. This was like being prosecuted twice which is similar to a two-subject bill.

Death Penalty

HB 67

Malone noted that the bill did not require death for first degree murder. McVeigh gave an explanation of what this involved. Tillion said this was designed to get the paid killers or professional murderer category. Malone said this bill doesn't cover cold-blooded murder. Tillion said it was hard to sort out the wife who rubs out her husband from the one that commits a passion murder. Malone asked about premeditated murder. Chance said that it is planned but you don't hire it done. Tillion noted that the drafter of this bill left out the normal everyday Alaskan type murder, but felt that as the state became more sophisticated that we should have some way to cover the for-hire murderer. McVeigh said that the murderers were not the social headache that the burglars, drunk drivers or check artists were. He

Death Penalty

felt that you wouldn't be able to make any appreciable change by having the death penalty. There would still be murders. Malone said that we should ask for a fiscal note on this bill to see how much money we would save by the death penalty over keeping the individual in prison for life. Tillion said that in this state they are usually eligible for parole after serving seven years so there wouldn't be much of a saving.

HB 67

Banfield asked about the item where if you were in jail and killed someone. McVeigh said that was necessary to protect the prison guards. They have greater exposure to risk. Banfield felt we should try to protect the witness. Chance said this wouldn't help because they can't die twice. Tillion said the guy would call in his friend "Charlie" and have him do it. Orsini said that then you would have a contract murder.

Banfield moved to take out (2) on page 1. McVeigh suggested amending the bill to say "intentionally" killed. Mrs. Banfield withdrew her motion and the amendment was adopted.

Malone asked about the phrase on the "principles of reformation" in Art I, Sec. 12. He wanted to know if it could be argued that if you wanted to kill somebody you can't reform him after that. Tillion and McVeigh said this point was arguable. Malone noted that this was for the protection of the public. McVeigh said he was right on this. Malone said he disagreed about the peace officers and thought they should be covered. McVeigh noted that we had added "intentionally".

Banfield asked Randy how "rape" was defined in 11.15.120. Banfield said she wanted to have one section that means the kind of rape we are talking about in this bill. Tillion said it must be rape which includes bodily injury. Banfield said it was a shame but you just can't prove mental injury.

Meeting adjourned at 4:25 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, February 26, 1974

Chairman Tillion called the meeting to order at 3:12 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, Banfield, Chance, McVeigh and Berry.

Regulation of Insur.

HB-178 Regulation of Insurance was the first item for discussion. Mr. O'Shea made some introductory comments and said he would like to have Don Koch represent the Division of Insurance, in the Department of Commerce. Mr. O'Shea is the director. HB 17

Mr. O'Shea said that this bill was an unfair trade practices bill and was patterned after a model bill put out by the National Association of Insurance Commissioners. We have an unfair trade practice section in our statutes at the present time. Basically, it is a lot of rhetoric and not enough muscle. This bill addresses itself to becoming more serious in trying to deal with such unfair trade practices. This type of legislation has been adopted in 18 states of the Union already, but there are a number of states who have already adopted equivalent legislation so that they probably won't adopt this. Mr. Koch is the rate analyst for the Division of Insurance and he helped draft this bill.

The chairman invited Mr. Koch to consider a section by section analysis of this bill. Mrs. Banfield asked to ask questions after each section so they wouldn't have to go back later. A copy of the analysis will be placed in the file and every member will have a copy in their own notebook for future reference.

Under section 3 there was some discussion of the word "knowingly". Mr. Koch said a case of this would be a typographical error. You wouldn't want to prosecute for that. Chance noted that this section meant that you would "knowingly" realize that the statement you were making was false. Mr. Koch said it definitely be difficult to prove. Tillion did not think this was too important a point. The word was left in.

Section 4. Chance asked why they were taking out the insurers and organizations. Mr. Koch said this was so they could include individuals engaged in the business in all aspects. It made a broader category.

Section 5. Chance asked about "marine and wet marine" insurance. Mr. Koch said that dry marine was mobile property and wet marine that which was moving over water. An example of mobile property would be trucks and their cargo while wet marine would be ships and their cargo. (Malone arrived 3:28)

Regulation of Insur.

Section 12. Chance asked that if someone knew they were violating this law, they would only get a $1,000 fine. Mr. Koch said this is for people that don't know and for those that know or should have known the penalty is not more than $5,000 for each violation. He also noted that in section C, line 9--if the person disobeys a cease and desist order the courts can levy a fine of not more than 10,000 dollars. HB 17

Section 14. McVeigh asked about the term "twisting". Mr. Koch said this is usually done in life insurance policies and it is a form of misrepresentation.

Section 15. Chance asked what a fictitious group meant. Koch gave the example of a group of citizens in the South Franklin area getting together for the sole purpose of buying insurance (car)--this would give them better rates. This is not considered the definition of group insurance. He said that one of the tests of whether a group would be considered fictitious is whether the primary purpose is to purchase insurance. He gave another example of the Alaska Loggers Association--they have group insurance, but there the purpose for this group was to lower losses through a common safety plan, therefore they were eligible for group insurance.

Section 17. There was some discussion about the material on page 15, lines 2 through 8. Mr. Koch said this places restriction on cancellation and is for the advantage of the public. Mrs. Banfield asked about the first section, where the insurer cannot renew a policy in force for less than twelve months. Mr. Koch said that if the policy was made for less than twelve months it would not be a renewal, they would merely have to rewrite the policy. Chance noted that State Farm insures for six months at a time. Mr. Koch said that under that arrangement a person has sixty days to decide if they want to remain on the policy. Mr. Tillion said this was a absolute necessity because he had had an insurance cancellation before the tour season was over. Mr. Koch also noted that after twelve months of insurance with the same company that all of these laws would apply.

McVeigh commented on notice of eligibility -- he asked Mr. Koch if there was an automobile assigned risk plan in this state. Koch said there was.

Chance moved HB178 out of committee. McVeigh was assigned to carry this bill on the floor. Tillion, Orsini, Banfield, and McVeigh voted do pass. Malone and Chance voted no rec.

Interest on Insur. Settlements

HB91--Relating to Insurance Settlements. Banfield said her notes showed that if we pass HB178, that HB91 was not needed. She said the Speaker said that this was not the case. Mr. Koch said that this was a different approach and it doesn't do it in the same manner. He said their understanding was that HB91 was to speed settlement--he said it is their belief that HB 178, because of the unfair trade practise section will do this. Mr. Oshea said the Dept. of Commerce subscribes to HB91 but that his research showed there had been no counterpart of this type of legislation in any other state. He said the Dept. felt that the imposition of the interest penalty will not accomplish its purpose. The interest amount will be an added cost to the premium expense which will appear in increased costs to the taxpayer. HB 91

Chance noted that what this bill was trying to do was speed up claim settlements after the amount had been agreed upon. Mr. Koch said this was covered under the unfair trade practises. Tillion said in Commerce Committee they felt that HB178 did not cover this, and felt the good over rode the bad. Banfield does not want to continue discussion on this subject. Tillion said he will place HB91 on hold.

Limit on small business loans

HB577--Limit on Small Business Loans--Tillion said this bill increased the amount available for small business loans. The Dept. of Commerce is not bound to give that much in their loans, but it does allow them flexibility. Tillion said that people really in business are screened out because $60,000 is not enough to launch a new project. As an example he said it would cost much more than that for him to get a replacement boat. Malone moved to report out HB577 with a do pass and asked unanimous consent. Orsini objected. Tillion thought this would be beneficial for business in the state of Alaska. Orsini removed his objection and the bill was signed out. Banfield signed no rec., everyone else signed do pass. HB 57

Death Penalty

HB675--Death Penalty. Randy presented the list of amendments that he had prepared. HB 67

No. 1--Pg. 1, line 11: Delete "under sec. 10 of this chapter" and insert in its place "AS 11.15.010".

No. 2. Pg. 1, line 19: After the word "killed" insert "intentionally."

No. 3. Pg. 1, line 29: Delete "rape under AS 11.15.120" and insert in its place the words "forcible rape of a female person against her will".

Death Penalty

McVeigh said he didn't realize that this was a mandatory death sentence. Randy explained that amendment number 1 was to cover a typing error. Tillion said that amendment #2 was to cover the bank robber who unintentionally killed someone. Mr. Saylors said he had no objection to the amendments offered. He said he felt this bill should be allowed to go to the floor, so everyone could vote on it. Saylors gave a little bit of history and said this was one of the first bills that he requested on January 21; he said he didn't know what took it so long, but it seemed to be the last one to come out of the hopper. He said he had included the state trooper in the bill and as it was it came out two days before the trooper in Anchorage was killed. He said he instructed the people in Legislative Affairs as to what he wanted and he was satisfied with what they produced. He also commented that this legislature undoubtedly will be known as the law and order session.

HB 675

Malone asked Saylors why they hadn't included cold blooded murder, he further questioned Mr. Saylors on section 1, lines 14 through 18 which did not seem to cover the person who made the contract. Mr. Saylors said that he didn't think it excluded either party to the contract, and felt both would fry. Orsini asked about the individual who cruises in his car and shoots down four people in a night--as has happened in San Francisco--that person should get the death penalty. It appears that this bill does not cover such a person--that is the random nut.

Saylors said he would be agreeable to a word change that would cover both parties in a for hire murder contract. He would also be agreeable to including first degree murder. He felt this would make it a better bill. Tillion said that might be so, but in effect, it would kill the bill and we'd better leave it out--as this would include the killing in passion, and most people would not want that person to be sentenced to death. (Tillion's example was his well-known image--the husband coming home and finding his wife in bed with another man, perhaps the electrician...and going and getting the gun ...)

Banfield asked about the prisoner being liable--if he murders a guard or another prisoner while serving his term. This appears to be excluded from this bill also--as are all other first degree murders, except by contract, or in the act of rape--and the other acts set out specifically by this bill. (section 4, page 2). You didn't mean it to protect the convict did you asked Banfield--Saylors clarified the confusion by saying that under section 4, the convict who murders, is eligible and would get the death penalty. McVeigh said that this was mandatory--

Death Penalty

and so broad--and that it presupposes that it will inhibit crime--and this has never been proven; in fact the opposite might just as well be true. There should be discretion, but such a bill must be mandatory as Tillion has repeatedly stated, and where there is no discretion, it must encompass a very narrow group. Malone still felt this should cover both parties in a contract murder, Saylors felt it did. McVeigh said that this is an arguable fact. Randy noted that from the law it doesn't cover accessory, but it does cover principal.

Banfield said that she was still bothered by section 4 and she wanted to delete "while serving his term". Saylors said that that would be all right. Malone felt that it resolved itself. Tillion brought out that they would have to be convicted before this would apply, and this would be a major change in Alaska law, especially since this is mandatory. We only should include the hardened type criminal and see that he gets this.

Orsini moved to adopt the amendments. There were no objections. Tillion noted that this was to be prepared as a committee substitute and that a vote be taken before it is prepared. Malone will offer his amendments from the floor. Orsini moved CSHB675 out of committee with a due pass. McVeigh objected. The bill was signed out:

Tillion Orsini Banfield	do pass
McVeigh	do not pass
Malone	do pass if amended

Meeting adjourned at 4:50 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, February 27, 1974

Chairman Tillion called the meeting to order at 3:12 p.m. in Room 104 of the Assembly Apartments. Present were Orsini, McVeigh, Tillion and Malone.

Off Road Vehicles

HB 463

The first matter for consideration was HB 463 - Relating to off-road vehicles. This is JoAnn Miller's bill and she said the people in the Pribolof Islands are having the same problems with off-road vehicles as the people in the more populated areas. Mrs. Miller said that this bill was probably written in the negative but the intent was to request the Department of Natural Resources to come up with an off-road vehicle use plan so that these people who do have motorcycles, snow machines, etc., will have a place to operate safely and also not offend those who do not wish to use this type of equipment.

It states that unless a place is designated for a certain type use it is prohibited, however, there is nothing that says the Commissioner of Natural Resources cannot designate any area as exempt. Say, for instance, they could exempt going over the muskeg.

Orsini asked if Mrs. Miller had made any attempt to coordinate this type planning with an overall land use plan for the whole state. (Banfield arrived 3:15) Mrs. Miller said that this was for single type use. Orsini objected because you put the burden of proof on the user and wanted to know why this couldn't be on the person that objects to the use. They could show the Commissioner of Resources that there is some harm being done. She said she wouldn't object to that concept. That way you could use all these areas unless specifically prohibited. Mrs. Miller said the theory behind this bill was to get the commissioner to draw up a use plan. If you did it this way he still wouldn't do it. This present bill gives him a year to develop a plan and maybe it should say two years. He needs enough time to do a good job. She felt it would be up to the department as to how much time they would need. She felt that you could coordinate and come up with areas where the people can use their machines in opposition to those that don't like them.

There has to be a decision as to which is the best public policy as it relates to whether you will allow off-road vehicles except where prohibited or the other way around. Vehicles have a greater potential for damage than pedestrians. The other point to be considered is the use of land itself. Miller didn't think it was fair to say that just because there are more people going through an area with motorcycles or snow machines that we should have to have any regulations at all. Orsini asked if Mrs. Miller had done any research on this and felt that since Judiciary is the only committee of referral that maybe we should have some comments from Public Safety.

He wanted to know how much it would cost to police every part of the state where vehicles are not allowed. This is a very large state.

Off Road Vehicles

Mrs. Miller said she didn't think that the plan by the Commissioner of Resources would envision a complete plan for the entire state at this time. She felt this would be done in phases. Logically, you would start at an area of need. She said that a fiscal note probably should have been provided and a further referral to the Finance Committee. Mrs. Miller also noted that there really wasn't all that amount of land under the jurisdiction of the state. BLM and the Forest Service make decisions on the lands under their control.

There was also some discussion as to the different use of snow machines. For some this is merely a means of pleasure, but for others it is a means of transportation. There seems a need for a differentiation between the two. Some of the natives use these machines to help in their subsistence living.

One more point was that every place we put in a highway it is necessary that public hearings are held, impact statements prepared, assessment of how these things will affect the economy. It was felt the same type of things should be required of bike trails, bridle paths, etc. Miller agreed that we did not have the same rules or safeguards for off-road operation as for highway construction.

Malone asked about the percentage of lands that we were talking about. Miller said the Commissioner said there were 13 million acres of patented land.

Orsini mentioned another aspect. He said that another cost might be the administrative cost of opening, closing, getting special permits and exemptions of various kinds. Tillion said that was no problem since the departments already have to do the administering. He did say that the all-terrain vehicles make enforcement of the game laws impossible. The use of airplanes can spot violators faster. The federal government has gone to this method of enforcing the laws.

Banfield asked Mr. Campbell, Commissioner of Highways if he was in favor of this bill. He said this was not his area of concern so he didn't want to comment. Mr. Fackler said that the Department of Natural Resources only administers the 13 million acres. Andy Seith asked to comment. He wanted to ask Mrs. Miller if there was any provision in the bill that included consulting with the people most directly affected. Tillion noted that the commissioners cannot put in a regulation without holding public hearings since they are under the APA. The only thing about this is if you open these by APA you will also have to go that route to close areas.

Dan Kubitz, representing the local motorcycle group, testified

Off Road Vehicles

HB 46

against this measure. He said he had done some research in Section 295 on parks and recreation areas and it already gives the Commissioner the power to prescribe rules and regulations that will best serve the needs of the state. Tillion said that this covered only the area of parks and not for roads. Mr. Seith said that he had mentioned this to some of the people already but that all the people make up 100 percent of the population. We have a great land and all the land is for the people. We have national parks, refuge areas, national wilderness areas and he thinks there should be areas that are for people with off-road vehicles. He thinks the area should be proportionate to other land use areas. He said say North Tongass consisted of 1,000 acres and you have 1,000 people. This is a ratio of 1:1. If you have 50 or 500 who enjoy ORV's you should have 500 acres available for them to use.

Mrs. Miller gave an example of what could happen. She said in St. Paul right outside their corporate city limits is federal land. The children have been using their trail bikes running up and down these hills. The people are aghast at seeing the hill being burned up irreparably. Tillion said you still wouldn't be able to do anything about federal land. Mr. Seith asked what the difference was in a few bulldozers making a ski slope. This also ruins the land. Just because skiing is more popular you won't hear anything about it, even though there is a great deal of damage to the property.

Tillion noted that there were 8,000 in the Anchorage area that have snow machines. They want some place to go. He also said that in the moose areas, almost every family has an off-road vehicle for moose hunting. Orsini felt this legislation was putting a burden on a large industry.

Malone said there had been a lot of testimony against this bill. He called attention to Page 1, lines 22-28. This said that the commissioner of natural resources shall make this plan in one year. This doesn't mean that all use will be cut off. This means that he will come up with a reasonable plan. He will say what areas will be open and for what use; specify the hours of use; types of vehicles; prescribe operating rules. Any damage to the terrain could be limited through his authority. Malone asked witnesses to give specific comments showing their objections to this bill.

Mr. Seith said that one year was not enough time to rightfully administer to the needs of the thousands of people who are being affected. He also objected to the wording of the bill where it would close all lands unless specifically opened. Orsini noted that in the time period, one year, there would be no use of these lands allowed. Tillion said that this could not be law until the Governor signed it and the snow machine use would be over until next year probably by April.

It was noted that St. Lawrence Island and the Kuskokwim had to be left open. McVeigh noted that this is what the Governor might do but this is not what the bill says. Tillion felt that that was why the bill was written in the negative.

Off Road Vehicles

Mr. Fackler was asked about developing the plan within one year. He felt the department could get something out in the time period specified.

Orsini objected to the negativeness of the bill. He said the people have to show why the restriction isn't necessary and this is contrary to the approach to government.

Tillion gave an example of open range in the State of Alaska. This is open except where closed. Sixty per cent of the voters have gotten together and closed most of the land now. McVeigh noted that this land was open or closed at the discretion of the Governor or the commissioner.

One of the witnesses observed that if you closed all areas unless declared open you would also close the practice areas. If there are only a few people interested in participating then it would be very difficult to get it opened up.

Tillion said we might want to consider limiting this to one mile from a road. McVeigh noted that this is very far-reaching legislation. That concluded the testimony on this bill.

HB 310 - designated use of trails, bridle paths and footpaths. (Chance and Beirne arrived 3:48) Mr. Bowman was here to testify on this bill. He gave a little of the history behind it. He said there were a number of people in his district that were concerned--Girdwood and Seward Highway--about not having places to be with their horses. Horses and motorized vehicles are not compatible uses of trails. He read a letter he had received from the Diamond H Ranch on O'Malley Road. They need places to ride and exercise their horses. It is dangerous to ride horses where there are motorized vehicles present. Mr. Bowman said there was no question but that the number of horses in the Anchorage area was increasing and there would be need for a place for the people to ride. He said he wanted to include with present legislation to include bridle paths. He felt bridle trails should be included in our parks, too. He meant state parks. He said they wanted to separate snow machines and motorcycles from non-motorized use especially in state owned parks.

Orsini asked how many horses there were in the Anchorage area. Bowman said he didn't know the exact number. Orsini noted that this bill would cost money and Mr. Bowman didn't even know how many people would be benefiting. Orsini noted that this money as grants would be used for the trails. He then asked how you would define "foot path" and "trail". Bowman said that both terms are presently in the statutes, the regulations adopted by the department would no doubt define them. Orsini noted that since they are not defined in the statutes he would like to ask the commissioner if they are

to be defined in the regulations. The Commissioner said that they hadn't been defined. Orsini then said that he would ask that footpaths be defined as being able to be used by both horses and people who are walking. Bowman said he had no objection to his suggestion.

Trails & Footpaths

Tillion said that if you had a bike trail you wouldn't want to have horses on it, too. These are usually made of macadam and horses would ruin them. In that case, bridle path would have to be something on dirt. The commissioner will have the authority to have separate types of trails. In this case there is a conflict in the people but not the material you build the road from. Orsini said there was no provision for a paved pathway in the current statute or in the proposed bill. He also noted that there were as many people running dogs as were riding horses. This definitely was a non-compatible use. He said that the U of A is offering a course in dog handling and there is nothing in the bill to provide for this use.

Orsini thought that footpaths should also be designated as areas compatible with foot traffic. It was felt that there might be a problem when you tried to define trails. Miller said she had no objection to adding bike trails and trails for dogs. Bowman said he didn't object to this change.

Malone said he had another type of objection. This related to the fact that the trails for motorized types of transportation would be along existing or planned highways. He said that non-motorized types are more compatible with dirt trails. (Berry arrived 3:58) Orsini said that it was preposterous to say you could only ride or use a motorcycle on or near the highway. Beirne said that that is the main part of the bill--we are designating that they are specifically along highways. She said she had been getting complaints because they were along highways. Her constitutents wanted it that there would be no snowmobile tracks along designated highways. When you see these lights coming at you out of the dark on the wrong side of the road--it could cause some serious accidents. In fact, there have been accidents between cars and snowmobiles. She was more in favor of HB 463 where you would have planning, realizing that there was a problem with the horses.

Chance said we were talking about the Commissioner of Natural Resources who develops the plan for the establishment of trails, foot paths, bridle paths, etc., all of which would be part of the established plan. Types of trails would be designated but not limited to--etc. The plan we are discussing is already required in which they will designate the types of trails.

Mr. Campbell said he didn't think the Commissioner of Highways should say what kind of trails. He felt the local people should submit a plan from the municipalities. They are in a better position to know the need. He felt the whole law should be reconstructed and put the responsibility for the trail plan with the borough. When they come up with the plan then you should fund them so they can police it. Tillion asked how

this would affect the federal aid highway program. This calls for bike paths near the highways. Campbell said that where they had successful bike paths, it was where the borough took the lead in the planning. Chance said that that is what it says should be done now. The grants are provided to the borough or city for the purpose of planning and executing these trails. Mr. Campbell said he could administer the construction but he didn't feel that he should make the road plan say for Anchorage. He doesn't know Anchorage's needs.

Trails & Footpaths

HB 310

Bowman felt there might be a problem leaving this in the hands of the boroughs. They may submit the plan, then before it is executed, change it all again. Orsini said he could see nothing wrong with that. Chance said you had to understand the grant program. The city and borough can apply to acquire rights- of-way to establish trails. There are grants to the department of highways--state grants--for establishing trails. When the state is building a highway now they have grants for providing such trails. When you submit your grant application for trails along highways the plan you have has to be approved. You wouldn't be able to change it to suit the local borough.

Orsini next mentioned combined use of the trails. He noted motorcycles and pedestrians. Tillion said this would be acceptable if it were written into the plan. Another example was snow machines in the winter and motorcycles in the summer. It would just depend what was in the plan.

Dr. Beirne suggested some new language for lines 13-19 on page 1. Malone also drew attention to the material on line 28. He said that uses might change over a period of time. He said that section 1 referred to those grants made to local governments to be used for roads and trails. He suggested to the sponsor that we cut off the material at line 14. He didn't think it was necessary to designate type of use. Bowman said that was the problem, it seemed necessary to designate. He said the department might just say all of you could use it. You have to recognize the needs of the people.

Orsini asked what the situation was in the nonorganized areas of the state now. Chance said that presently the local governments have control except when the state is building a highway. Mr. Seith asked why this had to be a state law, then. Chance noted that it was already state law. This added bridle paths and says the plan shall include designation of incompatible uses. There is some additional language in here that is offensive to motorcyclists.

Bowman said that this bill would have to be read in conjunction with present law. Tillion said that before the final markup on this bill that members would have a copy of the law.

Orsini said that his primary objection was to the philosophy on lines 14-19. This is a statement of policy.

Beirne had written up some suggested language for lines 14-19. HB 310 will be worked on by Randy. Beirne and Orsini will incorporate their suggestions into a CS.

Wage Claims

HB 607

HB 607 - Wage claims. The Department of Labor has been having trouble with people demanding pay when they quit the job. This says that the demands will be met at the place where the employee is usually paid. Chance disagreed and said that it said you would be paid at an office within the state. McVeigh said that this was a big problem. He said that some corporations pay from their home office. This will force them to open up pay stations in Alaska. Chance moved this bill out of committee with a "Do Pass" recommendation . Orsini didn't know exactly how this worked. McVeigh said there is a provision in wage claims that allows the Department of Labor to assist the employee. You go to the commissioner of labor and establish your wage claims; he then has his department lawyer go into court if necessary to collect the employee's claim. If you had to go to a lawyer you would lose most of it to the attorney. Orsini wanted to know how much of a caseload this change from $2500 to $5000 would make. McVeigh said he didn't know but didn't think it would be much different. The bill was signed out. All members signed "Do Pass".

Chance moved to adjourn at 4:45 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, February 28, 1974

Chairman Tillion called the meeting to order at 3:06 p.m in Room 104 of the Assembly Apartments. Present were Orsini, Tillion, Banfield, McVeigh and Berry.

Extend Contig. Fishing

SJR 50am - Urging support of S. 1988. This is to extend the contiguous fishing zone. Tillion suggest that we put an additional resolve clause on this with respect to the final disposition of S. 1988. It might be changed before it is passed and he felt we should tie our support to the original S. 1988 as submitted. Banfield moved to adopt this amendment. McVeigh moved to pass out SJR 50 am as amended with a "Do Pass" recommendation. All present signed "do pass". SJR 50 am

Inadequacy of fines/ Fishing violations

SCR 10 - Inadequacy of fines for commercial fishing violations. Tillion noted that this resolution had been asked for by the fishermen. Banfield moved SCR 10 with a "Do pass" recommendation. All present voted "Do pass". SCR 10

Exemption for Wicky

HJR 65 - Granting permanent exemption from the provisions of the Jones Act for the M/V Wickersham. Tillion said he had had some suggestions which indicated that if we asked only for an annual waiver they would not fight this. McVeigh moved this resolution out as amended with a "Do Pass" recommended. McVeigh withdrew his motion since Mrs. Banfield showed that this would have to be made into a CS and have a change of title. HJR 65

State Pharmacy Exam

HB 588 - Relating to the grading and content of the state pharmacy examination. Tillion said this bill was requested from the Board who said that they are constantly having changes in the examination from the National Board of Pharmacy. They wanted to have in state law that there are times they want to put additional things in their examination. Banfield moved and asked unanimous consent to sign out HB 588 with a "Do Pass" recommendation. Malone signed "no recommendation"; all other signed "Do Pass". HB 588

Regulation of Pharmacy

HB 589 - Relating to the regulation of the pharmacy profession. Banfield said that since this removed from our law what is already covered in the federal statutes. She then moved this bill out with a "Do Pass" recommendation. Malone signed "No recommendation"; all other signed "Do Pass". HB 589

Barbering

HB 344 - Relating to the practice of barbering. (Malone arrived 3:20) Tillion said there were basically not many changes in present law. He said the barbers themselves had asked for this. (Chance arrived 3:24) Mrs. Chance asked to be excused to go to another meeting. She signed the bills that were considered earlier today. HB 344

Tillion further said this bill takes some of the regulatory powers away from the barbering board. Banfield moved HB 344

out of committee with individual recommendations. Orsini objected for the purpose of asking a question. He wanted to know if any hairdresser would be considered a barber. This was on page 7. Banfield asked Randy to check to see

Barbering

if there is anything in this bill that says this is to be confined to a barber shop so that you couldn't get a shave or haircut in a beauty shop. He said that licensed cosmetologists are exempt from this. Banfield didn't think that those in the beauty shops were necessarily considered cosmetologists. She wanted to be sure that we weren't keeping beauty shops from doing these things. She said that at one time they couldn't work on wigs in their shops. Randy said the the definition by Websters showed these people would be exempt from this law. It says that they are also called "beauticians". This was noted to be on Page 7, Line 17.

HB 34

Malone said that he objected to the location of the appointment of the members to the Barbering Board. He felt the fifth member would have to be automatically appointed from Anchorage. Tillion noted that the district for southcentral ran from Kodiak, Cordova, and Anchorage. So they could be appointed from any of these places. Randolph will carry this bill on the Floor. Orsini removed his objection and the bill was signed out with unanimous "Do Pass" recommendation.

HB 445 - Relating to platting powers of municipalities. McVeigh said he felt there were problems with this bill. Tillion said Don Berry and the Municipal League were endorsing this bill. Orsini said he felt this was actually taking land away from the people. They are making the people who buy land pay for parks, open spaces, etc. Randy said the reason for this was that a person buying a lot doesn't have any way he can have access unless the subdivision owner allows land for this purpose. Tillion said that in the past the state had sold land that the individual had no way to reach without crossing someone else's land. That is why they passed a law that said state subdivisions were subject to the platting and planning and zoning of municipalities. McVeigh said that local municipalities were liberal as long as it is somebody else's land. Tillion asked the members if they had ever flown over the bad subdivisions in Anchorage. They use these as an example for the necessity for this legislation.

Platting powers municip.

HB 445

McVeigh said that municipalities have powers of condemnation and they should use this route. He felt municipalities should do this rather than putting limitations on what individuals can do when they want to start a subdivision. They could condemn areas for parks, etc., and pay the individual the going value for the land. Malone thought there was a CS prepared for this bill but Tillion noted that there was an amendment prepared by the Committee on Community and Regional Affairs. Malone didn't feel there was anything wrong with the bill.

Malone said the municipality had to adopt a plan in their ordinance. He said he didn't see anything wrong with having the subdivider providing these things with the requirement of dedicating a fair amount for park use.

Platting powers municip.

He said he could see that a problem would come into it if you were depriving a person of his property right under the fifth amendment of the constitution. This would be taking it away without due process of law. No one has to dedicate land from their own property for streets. At least they would get paid for the land and it should be the same way for parks. Tillion said there were some states that said if you are taking more away than a man can recover by the sale of the lots he will have a case in court. He gave the example of not allowing mobile homes on lots he sold. This increased the value of the other available land. In this case, according to such a law as he mentioned, he would have no case. It increased his other land value.

Malone didn't feel there would be any violation of the rights of property where you have a zoning and planning department in the municipality. Banfield noted that we were talking about two different things: through traffic streets, public utilities, etc. This refers to parks, openspace and recreational lands which lands are not specially for the convenience of the people living in the area. It becomes public park. She said she knows of people who live in subdivision and they are sick of this.

Tillion said he realized this but felt that the concept was that there are not enough areas that are open so you have overuse of other areas.

Banfield felt that a few people would pay for a park that is to serve the public. Tillion noted that the value of property in areas where parks are dedicated are much higher. Randy said the planning and zoning were becoming concerned about overcrowding. Now he said they were zoning larger and larger lots. This runs the price of property up even more. Where they have parks they allow smaller lots. Banfield said we had a good planning staff in Juneau. She did feel that there were areas that could be bought up by the service areas and used as parks. She said certainly they would like to take this route; it won't cost them anything. This is why she objects to this proposal.

Randy said there were arguments on both sides. One was why should the taxpayers have to pay for a park limited to a small area. Malone noted that zoning departments could probably under existing zone certain land areas as parks.

Parks are for the benefit and enjoyment for everyone in the community and then everyone bears the same responsibility. The dedication that is required is that the zoning department would have to develop the property according to a plan. This is an exercise of the planning power. This would let title be acquired. The only place this could go wrong would be unreasonable zoning or taking of property beyond what the state is allowed to do by taking private property for public use. He didn't know how you would determine the limits.

Malone noted that anyone planning a subdivision would have to go before the planning commission and their plan would either be accepted or denied. He didn't think you would be taking away anyone's property rights. This merely provides a mechanism whereby title can be transferred to the public. He didn't think there was any violation of anyone's constitutional rights.

Malone said this brought up another thought. This was about people who wanted to dedicate land to the municipality for park purposes. There is no way to transfer title now. In some places they don't have a parks department so they won't accept the land. He felt that in those areas where there is no management program for those lands, they should be allowed to acquire title in order to protect it for the adjoining property owners use.

Randy said there was another problem. This bill does not limit the acreage. Say if you have two acres you will have to dedicate 5% for a park. This would be unreasonable. Tillion said that people like to buy into locations where parks are available. Orsini said maybe we were talking about a very large acreage with the possibility that there might be a park in there anyway. For two or three acres or large lots you probably don't need park facilitites. Banfield noted that the park is open to the public and not restricted to the people in the immediate area. Orsini said he was thinking of the neighborhood-type park. Having these all over the city would be helpful.

McVeigh said he felt this bill was too broad. He gave the example of Mountain View Subdivision in Anchorage. He said ASHA had some land in this area and the people want them to dedicate some of this land to park use. They want to isolate the houses from the commercial area. The people expect a grant or a gift from ASHA for this purpose. Since they are dealing with public funds they can't do this. He said with something like this, the city could take a lot of land, valuable land, for open space. He said the local group would get together and insist on these open spaces being provided. Malone said that the only way this could be accomplished would be through the planning and zoning commission of a municipality.

HB 44

Platting powers municip.

Malone said the municipality would have to show that this was in their overall plan for parks and recreation. This couldn't come as a big surprise to the community. Any changes in the overall plan would have to be done by city ordinance. He said he didn't see anything wrong with requiring parks to be dedicated to the public as a part of an overall development plan.

There was some discussion about defining "open spaces". You might want to define them in a narrower way. You would have to set some kind of purpose for the open space. It would have to be a declared valuable public goal.

McVeigh asked about the payment in fees instead of dedication of a portion of the land or a combination of both. He thought this was a form of blackmail--what has the land to do with money? Tillion said he agreed on this point. He didn't think you should be able to turn in a fee and not provide land. Banfield said the space may be so small that in this case you would pay a fee. Randy said he thought the purpose of this was that that money would be used in the furtherance of parks. Tillion said this was covered by the amendment of the other committee. He read the amendment that was to go on Page 1, line 21.

Dr. Fritz was at the meeting and Malone asked him to comment. He said he was in favor of the bill.

Malone commented on Page 1, line 21, section (b). This referred to industrial use being exempted. He felt that the committee should consider removing this from the bill. While you may not want to have a recreational park in an industrial area you may want them to pay the fees.

Tillion said this bill may go out with individual recommendations and thought that Malone could better get his deletion from the House Floor. McVeigh agreed with Malone on this and felt that we should delete (b) and make section (a) applicable to industrial use land, too. Malone said you could expect impact from industry in a community and you might want to say to them that they have to give us some fees for other parks. McVeigh agreed with this and noted that at least industry were more able to afford this. Tillion noted that if you delete (b) and still add (3) then you can only use the money for the furtherance of parks, recreational or open space facilities. Tillion read the amendment again.

Malone questioned the material on line 26, Page 1. It mentions the land as "dedicated to public use". He said you may have plats with an open space and he wanted these designated so that people would not think they were open to public use. He felt that on Line 24 in the title you should say "and open spaces and other public areas." In Line 26 delete the words "open space".

Platting powers municip.

Malone still was not settled on the matter of "open space". On Line 12 this term was used again. He said it seemed to him that generally the powers granted to municipalities allows them to require open spaces on a plat. He said he thought it should have to be established for a public purpose. He thought that if they had no stated purpose that it would be unfair to ask anyone to do this. Tillion said that in one state they were doing something similar to this. They were providing open space but the individual retained ownership. They don't take the land from you but place restrictions on certain types of development. You can't build on your land. This state will pay the individual because they will not be able to build on their own land. It is left as open space. Orsini said he thought that was almost the same. Tillion said it wasn't because it did not allow public access.

Tillion said that on Line 12 he would leave "open space" in the bill. Malone asked if this was like a green belt or something like it. Orsini said that to him it meant undeveloped. There was some further discussion as to whether or not to define "open space." Randy felt there would be problems if the committee attempted to define it. Tillion gave further information about the condition in the state he mentioned. If a person gives up his right to build on his property and later decides to build, he will have to pay back taxes for ten years back at the new appraised value. Orsini felt this would obviate interest, but Tillion said the increased value would take care of that. Malone thought this was a good idea. Malone thought this concept should be explored.

Tillion said he felt this should be made into a CS. Malone said he still didn't think we needed "open space" on Line 12. Tillion said he felt that open space was different from a park. You can screen the public out of open space but not from parks.

Malone said he noted some hesitation on the part of Mrs. Banfield. He said that he had had experience with a number of developers and there isn't any objection to doing this. It enhances the value of the property. He did agree, however, that it did pose a problem where there is no management of lands for park purposes. He said there might be some objection to the payment of fees. Randy said that section (2) of the bill may cause a problem where a city refuses to accept the dedication of land. He said there are cities that have refused such lands. In this case the city keeps right on assessing the owner who dedicated his land. The individual wants to provide this park space but the city won't take title to the land.

McVeigh felt there should be a provision for municipalities to condemn land for parks, no matter who it belongs to, and pay them for it. This is the way they do it for streets and highways. Banfield said that was the problem: they didn't want to pay.

Tillion said he was willing that once you have made the decision to subdivide that a certain amount of land is set aside for green space. He did not want to see people forced to subdivide by heavy taxes applied to their holdings. HB 4

Platting powers municip.

McVeigh still would like to use condemnation. Malone said that in the statutes on eminent domain the procedure for condemnation. This is more difficult that what is proposed in this bill. Malone said he knew how difficult it was to get a subdivision approved today. You practically have to do the same things as for new highways--impact statement, etc. Malone said that was why he was in favor of this bill.

The chairman directed Randy to prepare a CS which will be brought back before the committee before further action.

There was further discussion about the municipality having a plan. Banfield felt that if there was a development plan that the person who has to dedicate the land should know what type of park the municipality will be preparing.

Trails & Footpaths

Orsini asked to consider HB 310 - designated use of trails, bridle paths and footpaths. Tillion said there was some language we needed to remove from this bill. Orsini said he thought about the concept of putting all types of trails in the bill and in some way indicating that these grants are to be used for all of these types of things at local option. Tillion said there was nothing wrong with that. HB 31

Orsini discussed lines 12 and 13 and proposed some amendments. He wanted to add dog sled trails, bicycle paths, ski trails, and foot paths among others. After mentioning them once he would like them to be referred to as various types of trails and paths. For Line 13 he would like to have it say something like this: "The plan may allow separate and incompatible uses of various types of trails and paths." This would clearly indicate to local government that they are allowed to have specifically separate trails. Banfield asked if a title change would be necessary. Tillion didn't think this was necessary but Mrs. Banfield noted that motor vehicles were also included in this bill. The title will have to be amended to allow both to be mentioned. Randy will check this out. Randy will prepare a CS for this bill.

Off Road Vehicles

Malone said he would like to see HB 463 - Off-road vehicles use plan - moved out of committee. Tillion suggested that since we already have legislation that requires a plan that the committee draw up a resolution directing the commissioner to institute a plan for such trails for off-road vehicle use. Malone will work with Randy on this. Orsini will also consider this legislation with them. HB 46

Meeting adjourned at 4:50 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, March 1, 1974

Chairman Tillion called the meeting to order at 3:03 p.m. in Room 104 of the Assembly Apartments. Present were Banfield, Tillion, Orsini, McVeigh, Malone, and Berry.

Rights-of-way/state leases

HB 559 - Relating to compensation for the taking of rights-of-way across state leases. Mr. Fink was the sponsor of this bill and was prepared to testify in its behalf. He said that several of his constituents had asked him to put this bill in. He distributed a copy of the standard lease form for state lands. He lined out the part in brackets to show what part he was directing his comments. They pay rental every five years; it is a 55-year lease. Under this lease they (the state) can take a right-of-way without compensation unless you have improvements on the land and the right-of-way passes right through the improvement. Mr. Fink felt that anyone who held a state lease should have better protection than this. He requested legislation from Legislative Affairs that would take care of existing leases as well as new leases. You can't get the lease unless you sign this form. A copy of the form is in the file.

HB 55

He gave an example of a doctor who had 10 acres of industrial property. He hasn't used the land; it is valuable land. Now there are some groups that want to take this over so people will buy leases from them. The individuals concerned went over to highways and they told them that they were going to take that land, and, of course, they wouldn't pay for it under this lease arrangement. He thinks this is the result of an overserious bureaucracy that you can take a part of the lease back without paying for it. He felt that lessees of state land should have the same rights as any other lessee.

Tillion said that it has been ruled that if the land drops in value because of the right-of-way the value of the lease would also drop and the lessor would receive a refund. Banfield wanted to know if they would have to go to court. Fink said there is one case in Anchorage now that they are settling out of court. McVeigh thinks this would be a good bill. Banfield asked if it needed an effective date. Tillion didn't think you would need one and Fink agreed with him.

Malone said he was not particularly knowledgeable about state leases. He asked about the language on lines 16-18 on Page 1. Malone was told that this would broaden the concept of Item 6 of the Lease Form so that the lessee would be entitled to compensation whether or not there was a crop or improvements on the right-of-way. Tillion noted that if the state thought they might want an easement they should say so before they sell the lease. Malone asked how the money would be applied. Would it be a reduction in the lease payment or would it be in cash? Fink said that if they couldn't agree on the valuation, then they would go to court. It could be used as a

reduction on the rent. It might even be more than that in some cases. They wouldn't really be tied together.

HB 59

Rights-of-way/state leases

Malone asked what happens now when you have a lease from the state and there is some underground resource where an individual has the surface rights. Mr. Fink said they would pay for any disruption to the land surface. Malone asked if this bill affected that. Tillion said that it did not.

Tillion said that years ago we had a '47 Act. They did the same thing in the federal patent on lands. We passed a state law that said the state is prohibited from using this act. Tillion said that this bill would give the individual more rights to the state land that he has under lease.

Mr. Fink mentioned that the Highway Department keeps designing new roads, cloverleafs, new curves, etc. You can go in and check with the department and they say that you better not do anything in that area because they are going to take the land for their purposes. Then they come along in a few years and have changed their plans. Anyway, if they are going to pay you it isn't quite so bad. For state leased land they are not paying now.

McVeigh moved this bill out of committee with a "Do Pass" recommendation. All present signed "Do Pass."

DA for Kodiak

HCR 49 - Relating to the stationing of a resident district attorney in Kodiak. Tillion said that he called the DA's office and they said (Kenai office) that they had a full workload in that one district and that an additional DA was needed. Malone said that he had received communications from the Kenai Bar Association asking to have a DA assigned to Kodiak. He said he was in favor of the resolution.

HCR 49

Mr. Laktonen, sponsor of the bill, commented that this resolution was drawn up by him because the Mayor of Kodiak Borough told him it was badly needed. After it was prepared the borough and city council fully endorsed it. He said that he called the AG's office after he had introduced it and they told him the workload there would not justify a resident attorney. They then suggested that he also cover the Western areas including King Salmon. Tillion said that he heard that the Kodiak work was not getting done because of too much work in the Kenai area. Laktonen said his only complaint against the attorney at Kenai was that he has a fulltime workload there.

Banfield moved HCR 49 out of committee with a "Do Pass" recommendation. Joe Orsini signed "no recommenation"; all others present signed "Do Pass".

Removal of bodies

HB 574 - Removal of bodies from institutions. A CS was prepared for this bill. Banfield asked if the first two paragraphs were the same and the only change was in the third. Berry said this was correct.

HB 74

Randy noted that there was a new title "An act relating to the handling of bodies." The additional paragraph related to the temporary holding of bodies in refrigerated facilities. HB 5

Removal of bodies from instit.

Banfield moved the CS for HB 574 out of committee with a "Do Pass" recommendation. Tillion will carry this bill on the Floor. All present signed "Do Pass".

Mr. Tillion was called away from the meeting so Mrs. Banfield assumed the Chair.

Delin. charges on loans

HB 98 - Delinquency charges for loan or credit extension. Orsini said that we had talked about this last year and that his notes showed this only related to late payment charges and not interest. He said that we never did resolve how these costs could be hidden. McVeigh gave the example of the person who deposits money, withdraws his money, and then writes a check on the money that he doesn't have in the bank. This is commonly known as "kiting". Mrs. Banfield and Randy disagreed with him. Randy said that it is when you write a check when you don't have any money in the bank but you expect to be depositing some in a short while. HB 98

Interest on Insur. Settlements

Mr. Randolph wanted to testify on HB 91 - An Act relating to insurance settlements. Orsini said that the committee was supposed to have taken care of that in HB 178. This relates to the regulating of the insurance business. Mr. Randolph felt that there was still going to be abuses. Banfield called his attention to the penalty clauses of HB 178. Randolph said that there had to be a complaint filed with the department before any action can be taken. The division of insurance in the Department of Commerce gets a very small percentage of the complaints. Most of them go to the insurance companies. He said that under this bill you would have to add interest to the payments if they are late. There is no automatic cost if they are late now but this law says that 30 days after settlement of your claim you must be paid. HB 91 & HB 178

Banfield suggested to Mr. Randolph that if this is important to try and put in in HB 178 from the Floor. Randolph said he didn't know why this wasn't done. Randy checked the law to see if this would fit in HB 178. He didn't see any conflict in the two pieces of legislation. Banfield moved to resolve the problem that way. There was no objection.

Nepotism

HB 535 - Nepotism. Banfield said that Randy had presented the prepared CS for this bill. Orsini noted that the same standards of nepotism would apply to the governor as to the legislators. Malone said that other types of cases were already covered adequately in the statutes. A commissioner can't have one of his relatives working in his department. HB 535

Malone asked what would happen if someone had been working say in HESS and a relative becomes the head of the department. The individual had been working there five years. Randy said the same statute would apply. They could not work there any longer.

HB 53

Nepotism

CSHB 535 was approved by the committee and signed out. (Tillion returned.) Tillion, Orsini, and Malone signed "Do Pass"; Banfield and McVeigh signed "No Recommendation".

Mr. Tillion assumed the Chair.

There was some discussion of HB335 - Ownership of real property by nonresident aliens. Randy said that the concept mentioned by Mr. Tillion had not been thrown out by the Supreme Court yet. He did say though that Supreme Court decisions upheld this type of ownership, but that these are 1920 decisions. Randy will continue working of this legislation. Malone asked if anyone knew of the conference between Japan and Alaska to discuss what holdings they have in the state. Randy said he wasn't aware of this meeting but that he could bring a copy of the treaty between the US and Japan.

HB 335

Land/Alien nonresid.

Randy said that the last time this subject came up was in 1948 and the case was thrown out on a presumption so they didn't rule on the law itself. The presumption was that where a transaction was paid for by an alien and vested in a citizen, there was a presumption that this was to avoid the Act. Randy said there were 4 votes concurring that indicated they would prefer to throw out the whole act but they didn't. There have been a lot of cases in other areas but not specifically on the land ownership. Tillion asked if this impinged on the treaty. Randy said that the treaty is talking about business, trade, and commerce. This doesn't cover land or agricultural lands. Tillion said he wouldn't object if aliens wanted to have a small summer home here, but he does object to their having large holdings of land.

Meeting adjourned at 3:55 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, March 4, 1974

Chairman Tillion called the meeting to order at 3:10 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, Malone and McVeigh.

Law and Order

Banfield said she would like to hear the opinions of Corrections and the State Police on the law and order legislation. Tillion said he would have the division heads make a presentation.

Mr. Adams, Division of Corrections, gave an overview of the legislation--not commenting on specific bills by number.

He said his initial reaction is that they are concerned just as much as everyone else in providing justice and supporting law and order. He said that corrections has a particular role to play. Corrections can do two things: Provide deterrents to crime and the maintenance of certain structures in the community as to what happens to you after you disobey the law, and (2) to try and change the offender. Mr. Adams said they were not contributing to the time situation if you get in an offender and you don't bring about a change in him that will prevent him from keeping right on doing the same things. He said they had concern about some of the legislation because it takes away the discretion from the courts. He was referring to minimum and mandatory sentences. This will have an effect on the number of beds we have available in our institutions. In our projections, we will have enough space but we haven't been able to do an impact study on some of this legislation. Mr. Adams said the interim committee submitted a number of bills and some of these were at our request.

There are three areas of import: One, is mandatory presentence reports. (Orsini arrived 3:12) The judge needs this report to provide all needed information on which to base his decision. Two, is plea bargaining. He said he realized that it was probably not possible to drop this from the judicial system, he did feel that it was possible to drop sentence bargaining. He said they see the DA and the defense counsel getting together and making a deal with the defendant which would indicate not only that he enter a plea of guilty but also negotiate the sentence that will be meted out. Mr. Adams felt that the judge should give the sentence. He didn't object to them giving the judge a recommendation. The judge needs the presentence reports and the recommendations from the DA and defense then he would make his own decision.

Law and Order

The third area is bail. This has been the concern of a lot of the people--the number of persons released on bail. Mr. Adams thought that the Division of Corrections should be able to hire enough staff to to background investigations properly. Malone asked what type of pre-trial supervision was given to people released on bail. Adams said there was practically none. He said they didn't have jurisdiction but this is a service they provide for the court. It is an informal arrangement. Malone asked how many people it would take to provide pretrial supervision. Adams felt there would be a need for three probation officers. Malone asked how many would be needed statewide. He said there was greater need in the major areas--three for Anchorage, and one for Fairbanks--with a total of four.

Malone asked Mr. Adams how many more people it would take if we made it mandatory to provide pre-sentencing reports. There would be a need for three more in Anchorage. This would be a total of 7 more people. Malone asked if these people were in the budget request for this year. Adams said No.

Tillion asked how you could allow plea bargaining but not allow sentence bargaining. Adams said he didn't think sentence bargaining should be allowed at the time of the plea bargaining. (Berry arrived 3:15) McVeigh asked if it wasn't a fact that plea bargaining and sentence bargaining were the same thing. Adams said that plea bargaining is when a man is arrested and charged say on a second degree murder offense. The DA doesn't feel he can press for a conviction so he would offer to plead to a lesser charge of manslaughter. He thereby takes his chances on the lesser penalty being charged by the court.

When the DA and the Public Defender get together and ask the defendant if he will plead guilty to manslaughter that they will recommend to the judge that he sentence him to five years with three years suspended. They then give this to the judge. This is sentence bargaining.

Banfield asked if Mr. Adams felt that offenders really are changed by going through their facility. He said Yes. Banfield asked what made him think so. He said they would look at the individual's record after they leave. They see how long they keep them a functioning member of society. Banfield asked which was the most expensive: To have parole workers supervising or to have the individual incarcerated. Adams said that it cost about 1/10 of keeping them in the institution. Banfield said that we have people coming into Corrections and stay only a few months or a sentence for several years. Do you have them long enough time for those released on early parole to remotivate them? Adams said this would depend upon the individual.

Law and Order

Banfield said that the parole board said they don't talk to the people in Corrections about the person up for parole. She didn't know how you could really evaluate the person if you didn't do this. Adams said one of the difficulties in traditional confinement is that the parole board bases their decision on the conduct of the person while in the institution. This type of thing is valuable in using community release and work release. Institutional counselors work with the board. In the pre-sentence investigation they talk to the superior as well.

Banfield asked that if in the event that we passed some mandatory sentence legislation would he be in favor of honor farms or similar type institutions. Adams asked if she meant something like half-way houses. This is an attempt to bring the offender back into the community. He said that honor farms work for some offenders. Most of the offenders go back into the streets in Anchorage. He said he would like to expand community service types of programs that we have in the state.

Orsini said he had difficulty of getting any figures on recidivism. How many do you really get back on the straight and narrow? Adams said they have a two-year study in progress. He said they accepted the National Advisory on Criminal Justice standards and goals for the definition of recidivism. He said he would leave Mr. Orsini a copy. These people were released in 1971 and this is a two-year exposure. It would be well to see how this is broken down. Those who were held in the institution for ten days or more and had no follow-up--35% came back. These had no parole, work furlough, etc. Most of these cases were alcohol related. Those on probation that didn't have an institutional sentence served and were given probation--12% came back. Those that went into the institutions and followup given by parole--16% came back. You must understand that the one getting probation is the best selection. Primarily the alcohol related are the highest recidivists.

Tillion said that he hoped burglary was separated out from other types of crimes in this report. Adams said they were making several runs on the computer. Banfield asked to have all material duplicated for the benefit of committee members. Adams said burglary had a 30% repeat. Actually, it wasn't broken down into specific categories--the computer broke down--but the overall precentage was 31%. This also included murder and aggravated assault. Orsini asked if these are the ones that get out of jail and then leave the state. Adams said No. These are the ones that go from Corrections and come back to Corrections. They go through their system. Malone asked if we would be able to tell, through the material submitted in the report, what types of offenders we have the least success of rehabilitation. Adams said Yes.

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The person with the alcohol related offense was the highest on recidivism and the least likely is the more serious types of crimes. Malone noted that since a person in a community program rather than in an institution had a better chance to be rehabilitated, what are the opportunities in this state for community type treatment programs slanted toward rehabilitation? How do these relate to other of Corrections programs? Adams said they had half-way houses and they contract with alcohol rehabilitation programs, Family House and drug rehabilitation programs. One of the things they unfortunately haven't had access to was the half-way houses. Malone asked if this was because they weren't available. Adams answered Yes to this. Banfield asked if they were full-cost operations. Adams said that in the HW Houses we charge the person for room and board if he is working. Orsini asked Mr. Adams what was the best step to decrease crime within his jurisdiction. Adams said they needed more money and more personnel. They need three probation officers in Anchorage, one in Fairbanks with one clerk for Anchorage. They would need another three probation officers for bail supervisoin in Anchorage with one clerk. This would be for bail supervision and presentence investigations and resources for psychiatric services for evaluation of offenders. This is one of the weak areas in their system.

The next witness to testify on law and order legislation was Norman Gorsuch, State Attorney General. Banfield asked if we would have one of our prosecuting attorneys here. Mr. Gorsuch said that Bill Mellow would testify. Tillion said there were a number of bills in on presentencing reports. Plea bargaining is another area. He asked how we could stop sentence bargaining and is plea bargaining a necessity? What would be the alternative? The AG said that presentence reports--requiring this as mandatory for the judges-- would require that Corrections be given enough personnel to do the job. This is a very good first step.

Mr. Gorsuch said that plea bargaining depends up whether or not the legislature would be prepared to commit the resources necessary to operate the system without any plea bargaining whatsoever. We anticipate that probably we would have to double the size of the criminal division if we do not have any plea bargaining. Initially in Anchorage they would need 12 more prosecutors to handle the felony caseload. These cases would be going to trial instead of pleading out. There are other aspects of plea bargaining that has to be understood. This relates to the --evidence in the police investigation doesn't always matchup with the charges made against the individual and there must be some discretion when you see that the evidence doesn't support a first or second murder charge but this same evidence would support a charge of manslaughter. This is exercised in the plea bargaining process. There has to be this flexibility.

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If there is any attempt to limit plea bargaining there must be money to back this up. There still must be some discretion with the prosecution as to what he would charge the individual with. If any plea bargaining bill does not provide that discretion, you may end up trying matters that should not have been brought up in the first place. You can provide sufficient safeguards in the system through the use of presentencing reports, providing some additional prosecutorial personnel. You eliminate the pressures in time and resources when you consider the gravity of the offense with which a person is charged. Compare that to the manpower necessary to prosecute the man charged.

Improvement can be had by providing additional personnel in the DA's office. He has a better opportunity to drive a harder bargain with these additional people. He will then have the personnel that can take the matter to trial. There is another aspect that he will be less hurried and will make a more careful determination upon which to charge the individual. This goes with mandatory sentencing. There can be effects from mandatory minimum sentences. If the mandatory sentence is not too high you would encourage more people to go to trial and run the risk of trial. They know they will have to serve a minimum sentence.

The impact of this on the resources will be heavy. There is also the practical effect. Juries might be reluctant to convict if the sentence is too high. They may look for other ways to find the defendant not guilty in a close case. The mandatory minimum can result in additional expenditures to operate the components of the system.

Generally, there are other areas in which we can strive to improve what we are doing. One way would be through establishment of higher grade levels for prosecutors so we can encourage more career prosecutors than what we are now able to retain. There is a job cycling in our office. We should have higher scales recognized by higher pay. Provide us with sufficient additional tools to encourage career prosecutors. On the average experience in our major DA's offices is quite a few years more than is thought to be the case. We should seek to give this encouragement to those who do have the experience. In this respect, Gorsuch said he would second what Mr. Adams said about additional personnel for Corrections. He felt this was something that he could see from the prosecutors' side and that Adams and his people are expected to bear a heavy burden of cases. To control the people more thoroughly and head them off from trouble sooner, you need more qualified personnel.

This could be done by bail supervision programs, if properly funded, and this will go a long way toward assisting the AG's office in meeting this particular problem.

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On bail jurisdiction--He didn't think there was any need for a massive revision of the bail provisions in the statutes. The administration bill addresses one problem. This is a good first step to allow the prosecutor upon proper showing to the judge to pass to the court after a short delay additional evidence that may come into his possession--showing something from the individual's background. This plan is sometimes looked upon as a 48-hour detention period. This is not true. If the judge would delay the granting of bail for a few hours--the prosecutor would have some time to get additional information on the individual's background and character that should be presented to the judge allowing him to set a more proper figure for bail. This will also provide an additional degree of protection for the public.

A recent decision, Martin decision, by the Supreme Court clarified the bail provisions in our constitution so that the Superior Court and District Court judges have sufficient leeway so they can grant bail. One of the problems was the ambiguity in the bail statutes and the constitution. This decision will provide ground rules that can be applied by the lower court judges. This will help solve some of the bail problems. He said there are some indications that this has helped because there have been some fair and reasonable bail settings in Fairbanks lately. He felt this was true in Anchorage recently, too. McVeigh asked him what he thought of a statute that required defense prior to trial to reveal alibi defense. Mr. Gorsuch said he didn't see any objection to that approach. Notice of an alibi defense was a reasonable request that could be made by the prosecutor or the defense attorney under general rules of the court. You can propose an amendment to the existing criminal rules or the legislature could cover this by initiative. McVeigh asked what would be the sanction if the alibi were not revealed before the trial. How could you enforce this? You go to your criminal pretrial conference and he doesn't reveal his alibi defense and at the trial he gets up with his alibi defense and time doesn't permit the prosecutor to check it out. Do you take it at face value--what kind of sanctions do you have against the defendant should that occur? Gorsuch felt this would be sufficient grounds for obtaining a continuance for examining the new evidence and to produce rebuttal testimony. As far as sanctions against the defendant--I would have to think about that. McVeigh said he hoped this would be examined. Tillion said we will check to see if we could do it by statute.

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It would be an asset to the prosecutor if that information were developed prior to the trial. Gorsuch agreed that this would be useful. McVeigh mentioned a case in Atlanta, Georgia. Gorsuch said that case came about by the motion of the prosecutor ordering disclosure of this particular defense. There are constitutional problems with respect to the witnesses, etc. This related to his self-incrimination rights. In view of the Supreme Courts's decision on Friday--they can hold them for a time--he incriminates himself if the witnesses that he is going to use refer or imply that he was engaged in some other crime other than the one for which he was charged--this would be incrimination. This could lead the police authority to charge him for crimes that they otherwise wouldn't know about. This decision was on March 1. Tillion noted that Mr. Snowden would get copies of this decision for the committee for tomorrow.

On plea bargaining. Malone asked if there was a need to continue this practice or make extensive commitments of manpower and resources to the components of the system. Gorsuch said this was true. Malone said plea bargaining as he saw it was pleading guilty to a lesser degree of crime. The other thing is sentence bargaining, wherein there is a guilty plea to the charge and there is discussion as to a recommendation that they would make to the court. The court doesn't have to follow this but they usually do. Malone asked if the district attorney could decide on what charge to prosecute. Gorsuch said this was correct. He said the ideal system would be one in which you had enough manpower to review the evidence and charge them with what the evidence shows. Obtain a guilty charge at that time to the charge and leave the sentencing up to the judge. Although, this wouldn't work in a lot of instances. As a practical matter, plea bargaining exists because we don't have the manpower or the resources to do otherwise. Malone on where it is used as coercion--One of the things stated in earlier testimony by Mr. Balfe is that sometimes the police overcharge. That is one of the reasons that charges are reduced. The question he would like to ask --In general what type of problems are there that the DA runs into because the police haven't made a proper case? Gorsuch said we need improvement in that area of police training. This needs to be coupled with sufficient resources in the law enforcement departments on both the state, local and city level. This would produce a higher quality investigative report. If you have this plus a police officer that has been kept up to date on the latest rulings of the court you will probably reduce the overcharging and produce a more consistent result in the charges for which a man is arrested.

Tillion asked if Mr. Gorsuch would see any additional cost if the judges were not allowed to take part in sentence bargaining. Gorsuch said the judge is usually presented with an agreed upon disposition of the case from both sides. Then after considering the recommendation will then render the sentence on the individual. The judge can disregard the bargain that is presented but he usually doesn't do that. Sometimes the attorneys make no recommendation and leave it completely up to the judge.

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Orsini asked the AG whether proper punishment is a deterrent to future crime. Gorsuch felt that it was. At least he doesn't disagree with the concept. He felt that the Supreme Court opinion adequately stressed the need to balance the protection of society with the rehabilitation of the individual. Orsini asked what is the best thing we can do to decrease crime within the Department of Law. Mr. Gorsuch said this would be to provide the usual--more money and more men. This would assist us. Another help would be the passage of the bail statute. This would help from the prosecutor's standpoint. Another help, advising the court of sufficient facts when it sets bail. Orsini said that many people seem to feel that the judges are too lenient in their sentencing. Do you concur? Gorsuch said the judiciary he has observed have been handing out reasonable sentences.

Banfield asked Mr. Gorsuch if he had appointed any prosecuting attorneys. He said No. Banfield asked what the criteria for a prosecutor would be. She said she couldn't tell the difference between a prosecuting attorney and a defense attorney. Gorsuch said he felt the criteria would include experience and judgment. Generally speaking those people that have been with the criminal prosecutorial process for any length of time and do possess the requisite degree of judgment--they have the proper mental outlook to handle the prosecutorial function. The third thing he would look for would be ability to work with with other people. These would be the three requirements for a good prosecuting attorney.

Mr. Gorsuch said you would always have new men to break in. He did feel that we had a high degree of experience statewide. Banfield asked about pay range. Gorsuch said they are paid basically on the pay scheme at the appropriate range level. He said they tried to see that there are enough senior grades in an office. He said you had more prosecutors in some areas and more people in the civil department in other areas. Banfield said she was pointing toward a career prosecutor. How can we keep these people? Gorsuch said this was a proper question. Prosecutors always reach a level when it is more advantageous for them to go into private practice. We need to provide more incentive to them.

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Banfield asked Mr. Gorsuch what he thought about elective prosecutors. He said he felt this would be an inappropriate remedy. In Alaska we have not had any problems with any corruption in our DA's office. When you have somebody elected you might get this. This increases the possibility of corruption because certain decisions may be made for reasons other than the disposition of the case. If it was near election time a DA may exercise judgments about what cases he will prosecute and what he will do that won't necessarily fit the circumstances. Like do a favor for all the merchants in town and collect all the hot checks. He would be doing this, when, in fact, while you are leaving insufficient resources to handle more serious crime. You would find decisions made more for elections purposes than for justice. You would increase the likelihood of abuse.

Banfield asked Mr. Gorsuch about HB 515 which gives a person a 6-man jury. She asked his view of this legislation. He said he hadn't formulated an opinion on that yet. He felt that if the accused was willing to go along with that he couldn't see any problems. He said he would not want to make a 6-man jury mandatory. The reason for this is that it would tend to affect the quality of the prosecution. We still have the obligation to prove beyond a reasonable doubt and this is better accomplished with a 12-man jury.

Malone asked about the additional needs for personnel in prosecutions and what has been the position on the legislative handling of the position. Gorsuch said they had not received any overjoyous response for additional prosecutors. In 1971-72 they requested three and got none. In FY 1973-74 they requested two and received one. This year they have requested six--we are now trying to play catch-up. We have added to this the impact of the pipeline. If you are interested in beefing up the criminal justice system you should treat that department with adequate funding.

Malone asked Mr. Gorsuch if he was personally in favor of laws providing for campaign and election reform in the state of Alaska. He said he was. On mandatory sentencing--you stated that you thought juries might be reluctant to convict. Do you have any evidence that this has happened? Gorsuch said he thought that comment was based on the observation of the DA's as he discussed this problem with them. He said with respect to grand jury indictments--certain offenses were discounted because of the severity of the possible penalty. He had observed this when the grand jury was seeking indictments.

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Malone asked if mandatory sentencing was going to contribute to increase plea bargaining. Gorsuch felt that it would contribute to a decrease in plea bargaining. There would be more reluctance to plead guilty for a particular crime when they knew they were going to be subjected to a minimum time in the institution. Malone asked about the case that the penalty would call for the mandatory death penalty. The prosecutor would have a pretty good lever for the person to plead guilty to a lesser crime. Gorsuch said the evidence would have to support the first charge. This would not necessarily mean that the evidence would convict them. Bob Mellow commented. He said that the jury would not know what the penalty or minimum sentence would be. Nullification is a very real concept--refusing to follow the law on the guilty verdict. He didn't think the mandatory minimum would have that much effect unless the people were generally knowledgeable that certain types of things now carried mandatory minimum sentences. Malone continued the discussion about the hesitancy to meting out such penalties. Grand juries--knowing what sentences were for particular offenses--how do you see the continued grand jury operation in the State of Alaska. Should we have mandatory grand juries, do away with them, or make them optional? Gorsuch said he felt grand juries were a needless duplication on the part of the prosecutor. You are doubling the manpower.

Mr. Gorsuch said if you had pre-trial hearings you would preserve the rights of the defendant and limit the burden of the state in coming forward twice. By leaving it optional, he felt this would improve the efficiency of the system and preserve the rights of the accused. He said there was a resolution before the Judiciary Committee two years ago on this. (HJR 103)

Malone brought up testimony by Mr. Adams with respect to problems with psychiatric evaluations. What kind of problems do you have now with civil commitment in the state of Alaska? Is this being handled adequately now? This relates to mentally disturbed and those committing criminal offenses. Gorsuch said they had one problem in that there needs to be some clarification of the responsibility of the court system and the HESS with respect to treatment and care of these individuals. It is mostly of a budgetary nature and there also is a vague area of jurisdiction that causes us on the civil side in the Department of Law to sometimes engage in repartee with HESS against the court system on the terms of placement of individuals. There is a need to clear this up. He said he wasn't familiar about the quality of psychiatric care. Malone said he meant only where his office was involved and was satisfied with his answer.

Mr. Snowden said the committee probably had some specific questions they wanted to ask. He already gave the court's views on this legislation, but was available for questions.

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Chance asked what could be done to upgrade prosecutions. They have asked for a raise but there is no specific answer to that problem. Malone felt we got specific answers from Mr. Gorsuch. He recommended establishment of another level for these professional prosecutors so they will be more apt to stay in the system. Banfield asked if prosecutors should have specialized training. Snowden replied that there are a number of courses available now. He felt that all of the professions would benefit by preliminary training as they come into the field. Public defenders and the prosecution staff--they are recent law school grads. Training would be beneficial also with new judges.

Tillion asked about presentence reports before sentencing, plea bargaining and sentence bargaining--the difference between--and would like to hear Mr. Snowden's comments on these subjects.

Tillion said that when a judge sentences somebody and he must serve 1/3 before he is subject to parole--there has been criticism for a judge to make sure so they use the 180 day rule. He would also like to hear his remarks on the 6-man jury.

Mr. Snowden on presentence reports. He said the court would require by rule that presentence investigations be done. This only required a one word change in the rules from "may" to "shall". He said if the committee would rather pass a statute, the court can't say anything. We have agreed to change the court rule so he doesn't see any need for the statute. We do need funding and there hasn't been any yet. He felt the court system would amend the rule even without the funding.

Plea bargaining versus sentence bargaining. Right now there is no requirement statutorily stating that the judge must accept the sentence as it is suggested by the defense or prosecution. Mr. Snowden therefore felt the judge has the latitude to impose any sentence he determines proper. This has been called to the attention of the trial judges in the City of Anchorage. There are many cases where the judges have assigned stiffer sentence than those requested and some have been more lenient than that suggested. They have this power now. Tillion said there was some talk that the judge entered into the negotiations. Snowden said he would take exception to the comment that the judge bargains with them. He did think the judge would be in a better position with presentence reports. The judges thought that the prosecution and the defense knew more about the situation than they did. Tillion said as he understood the process, the judge admits that he will not give them more than a certain sentence at the end of

the trial. This is what the people are objecting to. Snowden said this may happen on rare occasions but the facts show that on many occasions the judges have raised or lowered sentences. Tillion felt this was probably in the absence of an agreement. Snowden said he could see why people would object. He said he couldn't comment on it. This is happening before individual judges under individual circumstances--there are no statutory amendments for this. He said he would ask the Supreme Court to take a position on this if you have legislation on this. At the present time they have not made a decision on this subject. He said he couldn't give his opinion to the committee at this time.

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On the 1/3 sentence before probation or parole--Mr. Snowden said he had no opposition to such a statute.

Malone said that in earlier testimony it had been said that the judges don't reply to the inquiries sent by the parole board. He asked Mr. Snowden is that was true. Snowden said this has been true in the past. Since the time of that inquiry the Chief Justice has stated as a matter of policy that any time a request comes in, the trial judge should answer it. In the first place, the trial judge probably didn't have enough information. Five years later he doesn't even remember the man. His input would probably be very minimal. It might be good that the parole board get a copy of the presentencing investigation. To answer that specifically, he said he was with the Chief Justice--he knew he requested that any time the parole board requested this information that the judges were to respond, even if they only said they didn't know anything about the person.

Orsini asked if the Supreme Court has discussed the constitutional changes on punishment as a deterrent to crime. Snowden said there was some discussion in the letter submitted to the committee. There was the Chaney case--they included that as part of the crime. This matter has been clarified in this case. No constitutional amendment will be needed. Orsini asked Art about suggestions as to how the average person could inform himself as to the judges qualifications when they come up for confirmation. Snowden said that was a very hard question to answer. He said they were endeavoring to let the people know by publishing--in Anchorage--disposition of all criminal trials that the judge makes. The people then can follow the sentencing pattern. He said he hoped that the newspapers would also print whether the individual is a first offender, recidivist, or whatever in order to make a value judgment. He suggested that the Bar association could take an opinion on this. The citizens should be entitled to know what the lawyers say on the matter. Orsini suggested that perhaps the Bar association is not an unbiased source. There are a couple of problems--some will eventually become judges and secondly, the Bar association has a

larger number of defense type lawyers than prosecutor types and therefore they would be for their own prospectives or more prone to support a lenient judge against a stricter judge. Snowden felt they were sophisticated enough to judge a judge properly. Professional enough not to use bias in the judgment. Orsini asked about sponsoring seminars or providing tours of the courts. He also asked about involvement of others in the appointing of judges. Law enforcement type people rather than attorneys. Snowden said Mr. Hicks who handles selection and nominations of judges would be better equipped to answer that question. Mr. Snowden didn't want to comment on it.

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Malone asked Mr. Snowden how important is the areawide police to the administration of justice. Snowden felt it was very important. He said that when you talk about crime it is common to blame the court without looking at the whole picture. He said one of the problems is that people are more prone to commit crime when they know there is no apprehension possible. He said he had been told that there were three policing in the area in Anchorage. That is one of the greatest reasons for the increase in the burglaries in Anchorage. I am saying we do not have enough police. Tillion said you then have to consider that one out of every three will be doing this again. Some are earning their living as criminals. Snowden said this was correct. Corrections figures have not brought out the fact that either long sentences or short sentences were the best. They didn't comment on the length of the sentence. Tillion said about 35% of the burglars return. Snowden said after four times they could be charged with being an habitual criminal. He said he didn't mean to imply that the courts weren't part of the problem. It is very complex and the finger has been pointed toward the courts all too often.

Chance asked if there was any way to identify the repeat offenders that come before the courts. Snowden said they did. They don't have an efficient way. This is one of the drawbacks. He said it is his intention to develop such a system. Nonetheless, the courts have ways of identifying repeat offenders. Prior convictions can be brought up at the time of sentencing. Mr. Hicks said this information could be included in the presentence reports showing the full disposition of the case.

Chance asked about when you release a person on bail prior to trial. Snowden said there was a recent decision that said if they were a danger to the community it is an element of the decision. Chance asked if they had records at the point to determine whether the person is a danger to the community. Snowden said the man is indicted by the prosecution. At the time of the bail hearing the prosecutor can make this known to the court.

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Banfield asked if the prosecuting officers were doing this. Are they making the judge aware? Snowden said he couldn't answer in an absolute fashion. He thought they were, though. One of the problems, before the Martin case, was taken care of recently. This was in early January. He felt we would see a marked difference in bail settings now. Chance asked about pre-trial release. Is there personnel adequate to supervise the pre-trial release? Snowden said he didn't think we had enough people to supervise the ones on parole and probation. There are certainly not enough for pre-trial release. This is my personal opinion. Nobody is doing anything on that now. A number of states had bail agencies. The District of Columbia gets a report to the judge for the bail hearings. Just like the ones we have been discussing. The agency supervises the man out on bail if there are no stipulations set. Laws will not do the job unless you have the personnel. The reports are helpful.

Chance asked a question related to bail. On the report that the judge has to have as to whether the person would be a danger to society--do you feel that we would still need a system or personnel to supervise these people if they are released? If so, should that be with the Division of Corrections or with the Court system? Snowden asked if she meant-do we need it? He said he didn't feel qualified with his short stay in this state to answer that question. He said you could also set up an independent agency. They could handle this. They would have mandated duties to perform as outlined by the courts. He said he would voice no opinion as to where it should be and he would leave it up to the committee. Chance asked if there was need for additional legisation or state administration for the courts to better identify the repeat offender. Snowden said he thought the court will be able to do this without additional legislation. He said he will gather the information. As for the time frame--it will be manual for awhile. It will probably be six months before AJIS will be able to let us use data processing.

Malone returned to pre-trial release. He asked if there was no supervision by Corrections. Snowden said there is none by anyone. Malone said these are people charged with crime and they are out on bail. There are 80 some days on the average before trial. Snowden said he felt the average now was less than that. It used to be 120 days but now most are at 80 days or less now. Staffing the DA's would make it work better. If you staff only one side, you will have a workload jam at another place. Malone asked if this was a problem of not enough manpower only in the judicial branch and the department of law. Snowden said it was not in the court system.

Malone asked Mr. Snowden if we were any closer to getting an answer on what to do about the redistricting. He said that Mr. Hicks was working on that study. He said he would present all the viable alternatives. Art said he had suggested that maybe we could create one district for the whole state. We would have to do something with the election laws to compensate. He said he couldn't take a position on this. The study will be completed in two weeks.

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Banfield said there were also two resolutions that ask for a prosecuting attorney in Kodiak. She asked if Mr. Hicks had an interest in this. He said he didn't.

Orsini asked what the most important thing that could be done in the Judiciary to reduce crime. Snowden said he didn't think it was the court's role to reduce crime but to give justice. The primary goal of the courts is to see that people receive justice. He said he has suggested that the courts become more efficient in the processing of cases. He said the courts have a mandate to give speedy justice. If a man is guilty he should get an appropriate sentence or rehabilitation. When this is done right, you benefit society.

Malone asked about the degree of justice meted out in the bush areas as compared to urban areas. Snowden said this is one of their prime targets--better bush justice. They have created a Bethel service area. We intend to go to Barrow to create a service area there. We must bring about more equal justice in the bush. This is not true only of the courts but the entire Alaska system.

Retain the Wicky

HJR 65 - Wickersham - was signed out and submitted to the chief clerk's office.

HJR 65

Meeting adjourned at 5:05 p.m.

Chairman Tillion called the meeting to order at 3:09 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Chance, Banfield, Malone, Orsini, and Berry.

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Judge Nora Guinn from Bethel was present. The committee was considering the law and order legislation and wanted to hear her comments. They would especially like to ask her opinion of the service area concept. Did she think it would work out.

Judge Guinn said this is a very new concept. She said Mr. Snowden was in on the hearings to try and get some service out into that area. She said they were in the Fourth Judicial District and had to answer to Fairbanks. In felony cases they have to go to Fairbanks and generally have to wait a long time before trial and then they have no peers on the jury. The individual is also in alien surroundings. Some of the judges, Mr. Hicks and Mr. Snowden came to the conclusion that we weren't getting the type of service we needed. Travel patterns were bad. Bethel to Anchorage and then to Fairbanks. It was felt we would get better service if the superior court judges would come to us for adoptions, and other civil matters. Most of the time it was Judge Sanders from Nome. It took him two days of travel time to reach Bethel. The new set up will allow Anchorage to serve Bethel now. Public Defender and DA are from Anchorage. This is a much more feasible plan.

Judge Guinn said she felt there was need to come to some agreement for rent on buildings, etc. She explained what had happened on their first jury trial. It was very expensive. She said jury pay alone totaled $7,000. This did not include meals and lodging for the jurors. Rent for the trial quarters was $150 a day. It was the studio for KYUK. The trial ran about 12 days. She said there are no adequate quarters to house the judge when he comes.

She said the service received under the new arrangement made by the court system is far superior to anything they have had to date.

The area Judge Guinn was speaking of is about the size of the state of Oregon with 18,000 to 20,000 population. Banfield asked if the judge needed an additional judge or a part-time one to help her. She had not thought of that. She said she would like to have a public defender and a DA though. She said the Anchorage district court would help her out if she needed to disqualify herself.

Judge Guinn said that felony trials have taken up most of the time. Judge Lewis comes on Monday evening and leaves Friday evening. He is assigned for six months. After that, another judge will be assigned for six months. The cases range from first degree murder through grand larceny, contributing to the delinquency and this type of thing.

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Tillion asked if it made any difference to the crime rate when Bethel went "dry". Judge Guinn said she didn't know. She said that 97 percent of the crime was related to alcohol. They haven't been dry that long, though. She said it was really nice for awhile with no drunks stumbling out of the bars, but it wasn't long before the people were drinking canned heat, alcohol used for rubbing, extracts, shaving lotion, you name it. She said it wasn't very pleasant for the doctor. Orsini asked if the alcohol related crimes involved traffic offenses. She said that it excluded them. Orsini asked if she noted any difference between urban crime and bush crime. She said bush crime was violent in nature. Mostly fighting and killing, stealing and breaking up property--violent type things. She said she worked with the court system for a number of years and had yet to come across someone deliberately planning a burglary. They may do it when they are drunk. Even the murders in these areas are not deliberately planned.

Chance said she had been talking to a young lawyer and he seemed to have the impression that out in the rural areas it was alien to the culture of the people to judge each other. She asked the judge if it was difficult to select a jury. Nora said she had had no problem. They had a grand jury in June. She said they were a very conscientious qroup. They are very honest and they will tell you they cannot sit on the case and tell you why. She told about one juror who she felt would come to the trial drunk. She was mistaken--he took the job so seriously that he didn't come there drunk even once and was made foreman of the jury.

Banfield asked if there were drugs problems in the bush. Nora said they had both marijuana and heroin. Banfield asked if this was by the people having problems with alcohol. Nora said no, but it is growing. Banfield asked if it was in the schools and she said it was but that some adults were using it too.

Judge Guinn said they had one problem relating to communications. Getting back word to the community about the sentence imposed on an individual--that's the biggest problem. When the trial is held in the urban area it takes so long to get the results.

The judge commented on uniform sentencing. She didn't think this would be workable because you are dealing with individual persons. Malone asked Nora if she felt it would be worthwhile to concentrate more on law enforcement as far as alcohol violations go. She said she would look more to counseling than law enforcement. Malone asked if there was much bootlegging. She said to give her another two months before she would be able to answer that properly.

law and order

Mr. Hicks said that the Judicial Council is authorized by the constitution to screen and nominate two people for every judgeship that is open. He gave the makeup of the council. Prior to this year they didn't have any staff or budget. They received money for this study in 1974. He said he was hired and he has an administrative assistant now. He said they also handled some of the administrative affairs for the selection of judges. The council agreed that the studies planned would not be abstract studies that would only be placed on the shelves. We will be working with the agencies and having followup.

He said he had contacted Larry Parker, CJIS, to make sure we were not creating more bureaucracy. He felt they had a good working relationship now. He said this department has helped him a lot.

Mr. Hicks said there were two projects that were relevant to the bills in committee. They have a bail project and a sentencing project. The first thing they want to do on bail is to get the rates of recidivism as compared to the types of crime they commit the second time. We don't have accurate statistics as yet. He said we hear a number of cases. He hasn't seen any hard cold facts and it may be about 4 1/2%--no one knows for sure. Most of the 4 1/2 commit the same type of crime--maybe. We need to know for sure.

This reporting of material will have been gathered within one month. This information will be sent to the legislators as soon as possible. There will also be an evaluation of the effectiveness of the bail programs we have in Alaska. Mr. Hicks said that, to his knowledge, a person can be released on his own recognizance by paying bail for himself or he could be released on a large bail he gets from a bondsman who will guaranty his return to trial. This is a release on recognition. This is the Manhattan Bail Project and has been in operation for four years. Chance asked what this project was and he said it was students from the U of A. The court system is administering it. The U of A is taking over most of the operation. Mr. Snowden said they now had taken over all of the program. Chance asked how the students got into this. Mr. Hicks said they do investigating into the family, probation, maybe Mr. Adams can tell you

where to get the information. He said that the court system wants to evaluate the program. Tillion said that the clientele of the prisons would tell you something about return rates. Hicks said the crime types would also be known. Tillion suggested that there should be cross reference. It is evident this material will not be ready this year.

law and order

Mr. Hicks said that he had never seen any figures on the rate of recidivism. The court system will be programming this so the variables can be obtained. Tillion said the committee had had some figures given at the last hearing. Recidivism was high for burglary and low for everything else. Hicks noted that this tells us that we do need some broad legislation dealing with release on bail. He said maybe the judges need a differend kind of bail program. Maybe we should examine programs around the country. There are a variety of conditional releases to some actual pretrial advisory programs. Some have been successful and others have been failures. We should see what would be useful for Alaska. We should see if we can't be creative in our endeavor. Chance wanted to know if these changes could be affected administratively. She thought they could no this now. Hicks said he also thought they could do it and didn't know if there was any further legislation necessary.

Mr. Hicks said that Connecticut has three or four different levels of bail programs. We won't be able to get to that level without further legislation. The judges can be creative if they have the background to know what they are looking for. Mr. Adams suggested, yesterday, that he would need an increase in personnel in Anchorage to deal better with some of the bail problems now. He said he would like to suggest that we also need more programs for these people. Unless you do this, the bail programs will not be as successful as they could be. Chance asked if he was saying that bail reform could be brought about with out legislative action. He said that it is within the discretion of the judges.

Mr. Hicks referred to the sentencing project and the hand-out material that he had had distributed. He said it would give them an idea of what they have in mind. He said this was a very complex project. It starts right at the beginning--the booking. Takes a look at the investigation to see whether plea bargaining was used because of problems in the original investigation. We will look into the workload in the prosecutors office and the public defenders' office. They will start with 1973 and take every felony file in Anchorage to see whether that case was pled down from one charge to another. They will also check to see if in that plea bargaining there was an accepted sentence agreed to by the Judge. There are about 15 to 20 things that enter into this. This would even include the judge's awareness of the alternatives he has. In some cases they

may not be aware of the creative way they can do this. There is also the consideration of the limitations on sentencing. This would be where the facilities were not available. He said instead of plea bargaining they were going to take into consideration prosecutorial discretion. He said Mr. Adams had referred to plea bargaining and sentence bargaining--this is really prosecutorial discretion. He said they had not had sentence bargaining for very many years. Mr. Hicks said we are losing a lot of judicial discretion. The judges may be rubber stamping the sentence bargaining sentence. He said they wanted to have the hard facts on this before any decision was to be made. It will take a period of time to get this information. The Judicial Council has not taken any position on the bills. He said the recommendations they would make is that in those areas where there is no direct statistical information that the legislature should be cautioned to move slowly.

law and order

On presentence reports and increased manpower for Corrections will not be harmful. Banfield asked Mr. Hicks if we passed the capital punishment bill would the judges and juries not find the people guilty. He said he didn't know. Malone said that we had been assured by the AG that the prosecutor would go after these criminals. Banfield disagreed and said they said "they were reasonable men." Mr. Hicks said he had reservations about attorneys evaluating judges --also talking about the selection of judges. He said the three lay members are not swayed by the other members on the council. Orsini asked if others shouldn't be included in such selections. He suggested law enforcement, corrections, probations people, etc. He felt this might be one way of meeting some of the criticism. Hicks said he was going to a conference next month and would be better able to tell us about judge selection then. He wanted committee members to understand that the Council only screened the candidates for judgeships and did not make the selection. Orsini asked how the Bar Association fit into the picture. Hicks said they appointed the three attorney members to the Council. With the Chief Justice you have four attorneys. The Bar also conducts a poll on judicial applicants and at least one council members has gone on record saying he thinks that the criteria should be opposite to what they say. Banfield said that sometimes the people the Bar says should be opposed should be opposed. One of the problems is that we don't pay judges enough to entice them away from their private practice.

Chance said she went to the US FBI crime reports and (1972) picked out the states with the highest recidivist rates for common offenses. She checked into how the judges were selected and of the states considered found that six had appointed judges, 2 had a combination of appointment and election and 18 have election.

There were more serious crimes where the judges were elected. What she was saying is that where the states rank high on the uniform crime report the majority of the states had elected judges.

law and order

Mr. Hicks said the Judicial Council evaluates all judges once a year. This is according to their by-laws. Banfield said Mr. Hicks should find out more about what other states are doing in this regard after attending the conference.

Larry Parker, CJIS, was the next witness to appear before the committee on law and order matters. He said that each year the CJIS produces and report. It is complete and comprehensive. It informs the legislative branch and the executive branch as to what exists as far as criminal justice in the state is concerned. The report outlines the problems, needs and tells what the commission feels is important enough to take up next year. It lists programs and projects they want funded during the next year. He said they made broad distribution of these reports.

He demonstrated how the report would be useful. He asked committee members to turn to the annual action portion of the report.

On presentence investigations--he felt we should back that so we could get a lot better job and get better sentences out of the courts. Banfield asked if Larry felt his agency was a sounding board for the different lags in the criminal justice system. He said he felt this was true. Banfield asked if Pat Wellington, Norman Gorsuch, and Mr. Adams ever tried to sit down and figure things out with him. Larry said they didn't really and made mention of the recent hearing at Big Lake which was very successful. Banfield asked if more such meetings would be held. Mr. Parker said this one broke the ice--the people who came out of that secret meeting knew that it was up to the Commission to supply the funds there were necessary and do the ground work necessary to bring these groups together again. Banfield asked how we could include the person responsible for Corrections. Larry said he didn't know. Banfield said that none of the programs would be effective until they had included him. The head of HESS is not close enough to the work to be really effective. Banfield expressed the desire that now and in the future the head of Corrections be a professional; and that he would be a part of the governor's commission on justice. Larry said they ask him (Mr. Adams) to be present at their meetings. The commission was formed by law so we could change the law and put the head of the Division of Corrections on the Commission.

Malone asked Mr. Parker what the CJIS did now about coordinating manpower needs and requests of the different agencies in the administration of criminal justice. Larry said that it isn't up to the agency to tell someone how many people they should have. He said through the planning they hope to give an overview of the criminal justice situation.

law and order

Malone asked about the annual plan. Does the agency come out with coordination of manpower needs? He said he couldn't tell the Commissioner how many people he needed to get his work done. Malone asked if in the plan there was a need for so many people in corrections to prepare presentence reports did it show you had to increase the prosecutors, public defenders' office, etc. Mr. Parker said it was not shown in those terms. It wasn't until last year that it was realized that there were some real centralized problems in Anchorage. Burglary was one. They need some support for prosecution. If you start work on one field of crime, it will naturally follow that you will apprehend more in that field--like they did with drugs. They were not equipped to carry this emphasis on one problem all the way through the system. We knew this would be a problem, the criminal justice agency knew. He said they couldn't go into the problem of adding more personnel in Anchorage and Fairbanks. This agency doesn't do that. Malone said he thought they had the responsibility to accomplish criminal justice planning. He felt this would include the recommendation on manpower needs.

Mr. Parker said one of the functions of his agency was to approve applications for LEAA funds. There was some discussion of the trooper's crime lab and that there is an application in now for a crime lab by the municipality. Does AJIS focus attention on such things? Larry said there was a mobile crime lab with the Alaska State Troopers. It was evident there wasn't going to be any opportunity to move this so the Fairbanks Police Department came in and said they needed a crime lab set up. The Commission gave their OK. The application was granted. The City of Anchorage said that the AST lab was too busy processing things from statewide jurisdiction and they wanted one of their own for the municipality. They put in their application and got $23,000 for this purpose. When that one is in operation we will then have three in the state. Malone asked if these would be operated by three different agencies. Larry said they would--Alaska State Troopers, Anchorage Police Department and Fairbanks Police Department.

Malone asked if there was any plan for the certification of peace officers. Larry said that the Police Standards Act was passed--he thought it was Senate Bill No. 1.--last year. The first year it wasn't funded so we encouraged them to go out and ask for discretionary funds. Last year we got discretionary funding from the council and asked the legislature for the matching funds. The

Legislature granted the funds so plans are under way to establish such certification. You could get further information from Robert Sundberg who is chairman of the Council. They are funded with LEAA discretionary funds. Mr. Parker mentioned the plan with which they would be working. Malone asked if this plan had been cleared. Larry said that it was the proof and would be available in final form after it was printed, which would be about two or three weeks. Tillion asked if the Commission had taken a position on presentence reports. Larry said No. They don't take any position on legislative activities at all.

law and order

Orsini asked if all agencies dealing with criminal justice were included as members of the commission. Larry said he thought they were--all except one--corrections. The Judicial Council doesn't have any representatives on the council but they are an arm of the council. Since the courts are represented by the Chief Justice he felt they were covered. From the Legislature there is Rep. Huber and Senator Rader. Orsini said criminal justice planning should also include other aspects of our society as they relate to criminality. As an example, alcohol in the bush areas. He asked Larry what type of planning they did in this regard. Mr. Parker said some of this is covered in the back pages of the plan. They cover the Alaska Disaster Office and keep in close touch with the people working in the drug abuse programs, Juvenile Child Advocacy, Violent Crimes Compensation Board. Orsini thought they should also include economic development because this should affect criminality and the commission of crimes. Larry said that 50% of the planning is done on the staff level. He said that the commission meetings were essential with regard to planning. You meet people who have similar problems to yours.

Chance felt that this agency should also help coordinate activities in other areas than dividing out the money. Larry said that it seems sometimes that that is all they do. He suggested that people should attend the meetings and they would find that there is more to it than that. Chance asked Mr. Gorsuch to comment on this same point. Mr. Parker said there are several on-going meetings--coordinating-type meetings. In May there is the Criminal Justice Conference where all components get together. He said they had also recently funded the Department of Corrections so they could attend one of these meetings. In June the Regional Correctional Officer, DA, and regional law enforcement agency will meet and discuss some of our common problems related to the rehabilitation of the offenders. We are trying to see what can be done. He said they had also funded periodic conferences which would seek to coordinate their functions. As an example, sentencing conference. This will be held in Anchorage. In December they will discuss offenders who have mental problems. There will be judges, prosecutors, and other law enforcement people at this meeting. Mr.

Parker said they wanted to see if they could find ways to get better cooperation between the various segments of the criminal justice system. Larry said these were a series of funded meetings. We develop our part and then the various agencies report back to the Commission.

law and order

Chance said that she sensed a preoccupation with funding rather than substance of the conferences. Mr. Gorsuch said it is true they talk a lot about the funding. There has been full and frank information that has come out of these funded meetings.

Mr. Snowden announced to the committee that today the Supreme Court passed an order modifying criminal rule 32(c) and now demands a presentece investigation. This will be effective July 1 of this year. Mr. Adams said he didn't have enough people to do this work, so he hoped the Legislature would consider his when making appropriations. Orsini thought the Supreme Court is very adept at changing their rules. Malone said the critical thing would be the funding. Tillion said that one clerk and three people in the field for Corrections would be able to do the job. If we can't get that, the rule change won't do any good.

Mr. Walt Jones from Probation and Parole was next to testify. Banfield felt there were a lot of people who did not understand the role of the progations officers and would like to have Mr. Jones explain his work.

Mr. Jones said they didn't handle civil probate matters but their basic job is to carry on investigations and do court reports as ordered by the court system. Some of this work relates to the Interstate Compact where they have an agreement with 50 states to investigate and supervise each others offenders. He said he also supervised parolees and does investigations for the parole board. He conducts research and makes recommendations to the agencies mentioned regarding types of offenses in terms of--should a man have his parole revoked or should he be allowed to continue under supervision. Should he go to prison or should he remain on the streets? Should the man be sent to a specific type of facility or entered into a treatment program? Or, what should happen to the man? These are the types of decision we are called upon to make.

He said he also received and applied for program grants for experimentation. Trying to develop new ways to handle problems. He said that right now they were averaging a monthly case load of 1600 active supervision cases throughout the state. This included juveniles and adults. Tillion asked how many people were now working to handle this workload. Mr. Jones said there were 38 state funded positions. There is a total of 51 positions. There are 13 federally funded positions. Banfield asked how many of the positions were not filled. He said

there were three unfilled at present. Tillion asked if he had some concrete suggestions as to what we could do. Mr. Jones said he had a feeling about the bail supervision situation. He said he agreed with Mr. Hicks and would like to see a complete evaluation done before any resources are given to anyone to do this bail revision and bail supervision study. He said the reason he felt this way was because during the last four years there had been some experimental grants for trying new ways to handle their problems. They always aren't too successful. If not, it is no disaster, but it teaches a great many things. He said most people in his business labor under the myth of many years that if you have a small caseload this will decrease the rate of recidivism. They think it will also reduce the revocation rate. This is just not true and what it indicates is a failure within the system while still under your jurisdiction. You should know what you want to look for before you begin your study.

law and order

There are demonstration grants for misdemeanors and also to determine the difference between incarceration and fines. Mr. Jones said that for the past 2 1/2 years they have been running a supervision grant experimental group of juveniles in Anchorage and Fairbanks. We are trying to determine if we can make a difference in the recidivism if we train our probations officers--special training--and if we have small caseloads. We are comparing this with untrained porbation officer and very large caseloads. We have not yet received the final evaluation. There have been two interim statistical reports prepared. He said they found they hadn't had enough cases going through as control groups. At this point, there is no difference in the recidivism rates between small or large caseloads, etc. Naturally, it is much nicer for the officers to have smaller caseloads. They don't know if there will be a difference but will know by June 30. Tillion said that recidivism might relate to the crime and type of person rather that to the supervision. Mr. Jones said it would still have to do with the individual--classification of offender and personality type. We have a probation bank on the computer which will classify offenders that only need minimal supervision as compared to those that should be seen very frequently to help keep them straight.

Mr. Jones said that the circumstances under which the crime were committed need to be considered. The case where the individual lost his head--this type of person commits more violent types of crimes. He said they had developed a management system in their surveys. Mr. Jones said they are just starting to learn to classify offenders. They are also putting more people through the system in a shorter period of time.

He said that their revocation rates were dropping and he felt they were heading in the right direction. He asked Mr. Jones if he did the hiring of all of the people who are parole officers. Mr. Jones said the commissioner does the hiring, but that he does make recommendations to Mr. Adams and Mr. Adams tells the commissioner. Adams said they got a list from the Division of Personnel. Mr. Jones mentioned another possible problem--the pipeline. He said they didn't know what that would do in causing more vacancies. Tillion asked if Mr. Jones had any changes he would like to recommend. He said he would like to see mandatory presentencing reports and funding for Corrections so they can hire three people and one clerk. Banfield asked how he felt about HB 511 which called for the serving of 1/3 of the sentence before being eligible for parole. He said his personal opinion was that he couldn't agree with this. This takes discretion away from the parole board to best decide when a person can be released. In his own personal experience he has seen offenders that could be released on the very next day and not get into any further trouble. He said he had also seen the reverse.

law and order

Chance asked if the Partner's Program had been successful. She first asked if this program was under their jurisdiction. Mr. Jones said this was one of the experimental program and was successful as far as they were concerned. It met six of the seven goals they had set for it. This program did not relieve the probation officers of any of their workload. It allowed the officers to give more intensive supervision to the offenders and help in their rehabilitation. When you get a group of stable volunteers it really is beneficial. Mrs. Chance wanted to know if this program was still in operation. Mr. Jones explained that the program started with a grant--then, the money ran out. There was a lack of appropriate funding and there was a change of manpower. Chance asked if it had a significant effect on the revocation or recidivism rate. Mr. Jones said he didn't know. He said that a descriptive study was done. Chance asked what the attitude of probation and parole operation with regard to things communities could utilize rather than having state programs. She meant community based programs. He said they promoted this type of thing. It is usually the policy to ask the community and private groups to develop resources so we can contract with them. Chance asked if they had any money available to do this now. His answer was No. He said there are people who are interested but they lack the consistency to have an on-going scheme. He is talking about conditions statewide--not local. He felt it would be a good move to get people involved in running group homes, but even more necessary he felt there should be development for management programs so there would be one administrator. Chance asked if this would be something placed in the planning council or commission. He said they already were involved in this particular aspect.

A grant was prepared by the Kenai Receiving Home and they received a $12,000 grant to get started.

Mr. Jones said that the Criminal Justice Planning Agency has enabled his agency and others to try new ways by allowing them to develop new programs. They received their maintenance budgets from the state. They also get program money through LEAA funds. He said they wouldn't know as much as they do now without those research projects.

law and order

The next witness was Pat Wellington, Public Safety. Chance said it appears what we need is more police professionalism. She asked Mr. Wellington to explain the Police Academy in Sitka. Mr. Wellington said that there was a 16-week course for both troopers and protection officers with Fish and Game. This was funded by LEAA. Since there is no other training ground for municipal police, they, too, go to the academy at Sitka. There is also a village school of four weeks' duration and they have two emergency medical classes for police and fire department personnel. For the bush areas they have two one-week schools in Bethel, Nome, and Fort Yukon. He said they trained about 60 persons in these schools. The academy is in operation 48 weeks out of the year. Chance asked if there was a national or international organization that accredits such schools. Pat said he didn't know of any. He said they had periodic academic review and this is the way they develop their curriculum. For city police the curriculum is reviewed by the Chiefs of Police once a year. Chance once again asked if there was anything like national standards against which we could measure the curriculum and performance for certification of policemen. Mr. Wellington said that for Alaska this will entail 200 hours of training, which will be the minimum. Chance asked if there was anything that would say what type of information or instruction would come into that 200 hours of instruction. He said they didn't have anything. He felt you would have to pick your standards and then go to the states that have those same standards. He said they brought up an expert to develop their curriculum and give technical assistance. This is difficult because everybody does it differently. He said there were some basic requirements--so many hours of search and seizure, for example. Chance asked what the academy cost the police force. Pat said it only cost their salary. Chance asked why Anchorage did not use the academy. Pat said it was because they had their own training and it is good. Malone asked who did the evaluating for the City of Anchorage and for the state. He was referring to the program of instruction. Pat felt that the Police Standards Council will set the standards. If a city wants to exclude themselves, they will have to show they have a training programs comparable to that offered at the academy.

Tillion asked Mr. Wellington if he had any comments on plea bargaining, bail waiver or the prosecutors office.

law and order

Pat said that without plea bargaining the system would crumble. We don't have the prosecutors nor the judges. He felt personally that the judges ought to become more involved in the action and not rubber stamp the attorney's recommendation. It is apparent from talking to the DA that the judge seldom goes higher than the recommendation. Sometimes they do go lower. This could be a problem. Tillion said that in earlier testimony the definition of plea bargaining seemed to include reducing penalties between the prosecutor and defense attorney while sentence bargaining involved the prosecutor going to the judge and saying if we make a deal for a conviction will you promise not to give a penalty over such and such an amount.

Mr. Wellington said he didn't have any comment on that. He said we are just stuck with some kind of bargaining and sometimes it is not good. He said he didn't know what the answer would be. The DA's have to deal out some cases to keep their workload within reason. He said he was not satisfied with the system and didn't feel he could criticize it either. He had no alternative to give.

Tillion asked him what he thought about serving 1/3 of your sentence. Pat said if it was the second offense he would have to go along with the idea. He said he thought everybody deserves a chance or two.

Chance returned to certification of police. She asked if there was a requirement of certification before a person could be hired as a police officer. He said there is a background investigation and they can't have been convicted of a felony and then within one year they have the training. This is after they have been on the job. She asked if there was any provision for retraining. Pat said there wasn't. She said she was asking about this because that was one of the reasons given for reducing charges. The police hadn't had enough knowledge of the laws or court decisions or how to put together evidence so as to win the case. So the cases are dismissed a lot of times because of this. She asked if there was enough emphasis on this area. Pat said this is taught by Judge Monroe and evidence is handled by them or by the FBI. He said he realized they brought in bad cases. There is a lack of proper supervision. A lot of times there is just no case to begin with. He said he didn't think there were very many that had to be reduced because of poor police work. Orsini asked if he was talking about the state police or police in general. He said state police. He said they gave the smaller communities a hand. Orsini asked Pat if he was satisfied with the level and competence in their investigations (state troopers). He said the ones in his department are very experienced.

law and order

Malone asked what he considered the major problems facing law enforcement in Alaska. He said it was personnel, equipment, and the inability for individuals who are involved in a life of crime to be upt away for awhile. The repeat offender is what he was referring to. Malone asked how important would the upcoming election on areawide police for the Anchorage area be to law enforcement in that area. He said it would be very important. Malone then asked how he saw the role of the State Police in urban areas. He said they weren't intended to be a city type of law enforcement. When an area gets like Anchorage, Juneau, and Fairbanks, he felt they should assume their own police protection. They would be more responsive to the citizen. Malone asked what type of criminal activity might not be receiving enough attention from the law enforcement agencies, particular the State Troopers. He said that maybe Tom could answer that. He runs the criminal investigation center.

Pat mentioned the money appropriated last year to work on drugs. He felt they were tackling that problem pretty well. That is getting the emphasis. Burglary and petty crime are not getting enough attention. Banfield said she wouldn't have brought this up, but on the appropriation for drugs. They discussed the report. She noted there were 393 arrests for possession of marijuana. She asked if they were concentrating their work on this drug. Pat said they weren't but that the drug was so plentiful. Banfield asked if we passed the capital punishment legislation, did he think that there would be fewer people arrested for murder if it was felt they were guilty. He didn't think it would have any effect on the arrest rate. It might effect the sentence penalty but his people would perform the arrest. Banfield asked if it would make it easier to make arrests on the gun for hire people. He didn't think so.

Chance said she was sorry to go back to the question of competency of police. She said she had researched information about dismissed cases. 80 of those cases appear to be because of incompetent work. Cases such as insufficient evidence, defendant already in prison or out of the state, dismissed on improper search and seizure, or grand jury refused to indict. She said that was why she was wondering about the training and retraining of the police. When 80 out of 152 released because the case hadn't been made by the police is an indication there is some need for change. Banfield asked if the prosecutor had anything to do in this. Pat said they probably did. Chance said 79 cases were reduced in charge and out of 152 cases that were dismissed 80 were because of problems in making the case at the police level. Pat said what you would need is a bus carrying the police, DA, prosecutor and the judge I suppose. Snowden said most of these involve city of Anchorage police and there has been a

great turnover there. Malone said this is a relevant point. Malone said Chance was bringing out is that whether they work for the state or the municipality they should be trained and equipped for the work. Pat said he agreed and said they certainly should be trained. Banfield said that it seemed to her--in every other area, parole, prosecuting attorneys, etc., we hire professional people, but for police we hire anybody off the street. They take a quick course and then they are on. People need to know how to be a policeman. You need to pay them decently to reward them. Only then will we have police that we are going to be able to have police that we won't having to be making excuses for. Chance said that really was one of the weak spots. She asked Pat for suggestions or recommendations for improving the professionalism. Pat said the Police Standards Council is working on this. Chance asked if there was anything that the committee could do in the line of legislation. He said there wasn't now.

law and order

Malone noted the impact of the pipeline. He asked Pat if he anticipated losing people from his department to work on the pipeline. He said there would be some but they would be more likely be the ones with less than five years' experience. They would be the nonranking members.

Banfield asked if he found there was a change in the attitude on the part of the people now toward the police. Pat said that he had. They have a better image with the school kids now. He said they still have a problem in the Anchorage area. Banfield said she hoped they wouldn't go union. Pat said what they really would like is to have a unit of their own. Now they deal directly with the legislature for pay raises or join with the executive department. Every two years it would be up for review. That's what they want. Tillion said this was some thing we could do. Larry said the AG probably wouldn't appreciate that. At a meeting with the chiefs of police in Anchorage the thinking brought out more often was that they are tired of training prosecutors and DA's. They hope that Mr. Gorsuch will keep them a little longer. It was a felt that there had been a lot of good dialogue developed today.

Orsini asked if it was the impression of the state troopers that they arrest the individual and the next day they see him out on the street. Pat said this was true. There is deep concern about the number of people withthe same faces for burglaries and whatever else is going on. It does make you wonder why they aren't put in jail. Tillion said that is what most of the people are concerned about.

This hearing will be continued tomorrow. Meeting adjourned at 5:20 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Wednesday, March 6, 1974

Chairman Tillion called the meeting to order at 3:05 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, Chance, Orsini, Malone, and Berry.

law and order

Colonel Dankworth, of the State Troopers, was the first to testify on the law and order bills today.

He said he had originally prepared a statement but felt it was too lengthy. It gave the cause of some of our crime problems in Alaska. He said he would leave a copy of his remarks with the chairman.

Mr. Dankworth said everyone is quite aware that there is a general feeling that the judicial system is not doing its job well enough and wants to know what to do to make it better. There is also the general feeling that we have a misguided concern for the criminal and not enough for the lawabiding citizen. This is covered in his statement. He said that the general public there is a lack of common sense approach in applying our laws in the courts. He said he felt they were angry and frustrated. They don't know who to blame--the police, DA, corrections, or courts and maybe they even blame the legislature. Some would capitalize on this anger and possibly in a panic we could find that we are going to rush into some type of legislation that might not get to the root of the problem. A number of the proposed laws are designed to discipline the court and for a lot of this there is no need.

Mr. Dankworth said that his own personal philosophy was when you take a good look at the problem he realized there are a great many people that will not agree on what can be done. This is caused by the prolonged indoctrination of a social ideology that everybody seems to accept. He said he meant everybody but him. He said the permissiveness that has swept our country and nation is only be reflected in our court system. It is a social disease that history will record as anarchy.

He made reference to a book by Dr. Menninger, "What Happened to Sin", which touches upon this. We took a very small truth and we made it into a bold untruth. That was because we jumped to the conclusion that man does suffer sex frustration and it can be traced back to childhood traumas. If that is so, then man can no longer be held responsible for his actions. He said he believed this to be true and, therefore, have gone too far.

Citizens will not be held responsible for the second, third, and fourth offenses. This reaches down to the home level, too. The child is not asked to answer for his transgressions in the home. We keep rationalizing for these people. This results in complete disrespect for authority. Then all of a sudden we want to get mean with them. When in fact, we are just plain frustrated. After all this, then we establish rehabilitation programs for them. He said he would like to see our courts giving stiffer sentences and he hoped they would do this before the people got mad enough to do something about it.

law and order

As to specific law enforcement problems facing Alaska and some of the things that need to be done--the biggest contribution to crime is the enadequate distribution of the police forces. This was probably covered in Jamie Love's report--this is an excellent report--it gets to the heart of things.

This is a politic as to how they are going to resolve problems. He said they have 165 police on one side of the street and 50 on the other. Both handling about the same number of people. Crime is definitely getting out of hand. As head of the State Troopers he believes the ultimate answer is that we have one primary police department policing the area. With several police departments in the various service centers you will only bring on more problems. This is a critical problem now. He said they have 31 officers for 70,000 people and approximately 5 men on duty at any one time. He said they needed 20-25 additional men right away in order to get them trained. He said they should level off within 40 people. The Director said that is the best they can do in 1974--and that is only if the legislature gives them $1 million to do it. He said there are people in Anchorage that are being escorted to the grocery stores. Child molestings and rapes are out of hand. People are carrying guns on the seats of autos. He said he could talk about manpower and money as being the answer to every problem. He did make this observation--distribution of law enforcement officers--the largest concentration of 160 officers in 20 square miles. In that area they have built an elaborate court house and it is in this 20 square miles where the murders are occurring. Prostitution and related things are centered in this area.

On mandatory sentences. Colonel Dankworth said he thought we must recognize the original philosophy must be considered. In his 20 years' experience he has seen numerous cases where people have committed crime that he felt quite comfortable with if they got a suspended sentence. There were extenuating circumstances involved. He said he would be afraid to recommend mandatory sentences. He said he would not take away discretion from the courts; He said we should correct what is wrong and not legislate against the judge. The Col. said the people were

angry about something else, too. That is that the police officers are geared too much to the street crimes and not enough to the rackets. They ask why these people aren't ever arrested. When you look around and see the police action, that is a very logical question. Mr. Dankworth said there were some tools that they didn't have. Take, for example, there is a code of ethics in the underworld which will allow you to catch a prostitute. We are not overly interested in them, we want to go one step higher. Who is behind the whole operation. It is therefore important that we get an immunity statute passed. We need this to find out about activities of white collar and organized crime. He said he hadn't read the governor's bill. It probably will cover the situation. Then we can bring these people before the grand jury and start getting some of the ones up the ladder.

law and order

Colonel Dankworth said there would be need of strong consideration for increase in our CIB in years to come. Captain Tom Anderson will tell you about the expansion needs in that department. He said he didn't know of any better way to spend money right now than in the CIB. It is operating throughout the state This is not for only one department. In 1971 it was established to bring in experts in the field essential to criminal investigations. They made them available to the police departments. They had technicians, etc., these came into the unit. They fly to the area of need. This is a means of upgrading law enforcement throughout the state.

There is the Metro Drug Unit and they will work with municipalities. Tom knows more about that. Everybody can get together and work constructively. There are areas in the narcotics report where this would be very beneficial.

As far as recommendations for manpower needs--there are two essential needs. Presentence reports are going to be valuable to let the judges know what is going on in the individual's life. Corrections is already a very overworked group according to their caseload. I would assume that they would need some funds to make this work. He also noted that our state attorneys office is not properly funded. They need more attorneys. He said he would also like to see their salaries studies and some consideration given to make them more attractive so they would be career people.

He next commented on the lack of respect against the judicial system. He made particular mention of the courts. Sometimes, he said, this is unjustifiable. Some of this attitude is generated in the plea bargaining arrangement. He has heard the belief that the court system has collapsed by its own weight. He said he didn't believe this himself. These are people who don't understand the judicial system. They see a man go in for one particular crime and comes out

with another charge bearing no relation to the original charge. Plea bargaining is necessary--it is not all bad. It can be misused and he felt that it our state we were misusing it. The judge many times is turning into a stamp for a deal that is already made. He goes along with the plan for the limited sentences that come out. He felt that maybe the Chief Justice should address himself to solve that problem. He said he was not recommending that we do away with plea bargaining. Tillion asked if the Colonel made any difference between plea bargaining and sentence bargaining. He said he never gave this much thought. He said he felt the most disturbing thing was the reduction of one crime to a lesser one. This may be corrected with requiring presentence reports. He said he felt the judges will try to do something about this if they can get all the facts together.

law and order

Malone asked Mr. Dankworth about organized crime in Alaska. How serious is it and is it connected with activities outside of Alaska? Dankworth said there was some organized crime in Alaska. He said there has been some differences in what people think organized crime means. He said he thought it means Mafia driving a black Cadillac, at least that is what it means to the average citizen. To him it did not mean that. He said there are people and organizations that accumulate great wealth off of the victimless crimes. He gave the example of narcotics. They set up fronts--such as legitimate businesses. There has been some of that in Alaska. There will be more. The Director of the Troopers said they were aware of some of these. One thing he wanted to caution the legislature one was to legalize vice-type crimes. These people would like to think they can legalize these offenses and do away with the crime. Alcohol is a good example of this. You can tax it, say who can sell it, but you can't control it. Things that could come under this would be pornography, prostitution, drugs, etc., and just passing laws legalizing such things will not make them go away. He gave the example of what happened when massage parlors came in to Anchorage. This was really a front for prostitution. The thing about this is that it hurt the really legitimate massage parlor business. When they started out this way this gave them a type of sanction. Nothing happened then but when they started advertising openly that's when the problems began emerging. They started with neon signs, went on to newspapers and then to cabs. It then became very obvious what they were selling. This made it look as if the "lid were off". Within a short period of time we have had as high as five murders directly related to that type of thing.

Malone asked how this could exist without the community giving tacit tolerance. Dankworth said there was widespread prostitution and everybody knew about it. Malone asked if that didn't indicate a tolerance by the community. Dankworth said he had heard it said that it should be legalized. This is nothing new. Prostitution has been in Anchorage as long as--it didn't become a problem until they started advertising. Girls came to Anchorage from all over. The Anchorage City Police are now carrying on investigations and making numerous arrests. The government isn't any stronger than the people who run it. He said he didn't think they had been tough enough.

law and order

Malone next asked about white collar crime. What is it and are the state troopers doing all they should be doing to reduce this type of crime. Dankworth said No they weren't doing enough. In all fairness to your question, when we set up the CIB we thought we could define these types of crimes that called for more expertise than the general officer has been trained to do. Because of the workload, he hasn't been able to develop that unit. He said they still have some overworked units. What he wanted to do was establish an internal affairs unit within the CIB to do a lot of the internal investigations for the state--for the different agencies. They have problems. They even ask the legislature to fund positions for this. There is little control in this one area. He said he would hope to see this as the investigative arm of the state. He said, also, that many of our municipalities throughout the state have internal problems. Who can they get to come in and do the investigations? The CIB is the only thing they have. Malone asked if one of the problems would be self-policing. He meant as far as the police agencies are concerned. Dankworth said that within the internal investigations unit there would be a part that would police the police themselves. When you might have to hire people faster than you could conduct a good background check, you would need to investigate. Also, when you received complaints from the public. These have to be investigated.

Malone asked Colonel Dankworth his opinion on the need for the legislation in the area of campaign reform. He said he didn't have any opinion. He hasn't read this bill. He said he was for some type of reform through necessary legislation--this was his private opinion as a private citizen.

Chance asked if the Internal Affairs Unit would help to insure that there are professional people in the police departments throughout the state. She asked if he felt this was as much a need for professionalism in the State Troopers as in the municipal departments in the state. He said Yes. There is need to increase the calibre and training. He said the municipal academy is operating in Anchorage. Police Standards Council

will do a lot in this regard. The Director said there are some areas of expertise that he would like to eventually see. He said there should be some plan for the commissioner to plan some way for lateral hire. We need accountants, people with educational backgrounds, offer them a little more money. Right now, an attorney or accountant has to start at the bottom rung of the pay scale. In the CIB he hoped they could give some recognition to their education and experience.

law and order

Chance asked if the state needed a fulltime professional parole board. Dankworth said Yes. If we really want to get in and give this more attention, that would be a necessity. He said he knew of cases where not enough attention was given. He said he felt that sometimes people were let go without enough study. This is his personal opinion.

Orsini asked Colonel Dankworth to comment on the level of training of state troopers and other law enforcement entities in the state. He said he didn't think we could spend too much money in training. There is no question that the better the training, the better services the public will receive. Being more practical, with 17 weeks of extensive training, a good background, this is about all you can expect now. Except when you get into the specialized fields this is a good basic start. He said he felt they were short on inservice training. He said most of the inservice training has been done outside. They did bring some experts up here on auto thefts and drug training. This was a two-weeks' course.

Banfield noted that the legislature would be considering the capital punishment bill tomorrow. She asked if he favored this for the heinous crimes. Dankworth was afraid she would ask this. His answer was No. He is not in favor of this. He said he had a religious conflict about this. He said there were a lot of people he would like to see put away--contract killers, the killer in Houston and California, for example. This is where they just kill indiscriminately. There is a conflict with how he feels about judgments--he would honestly be against it. Banfield asked if he thought the state should abandon the treatment programs for those that are convicted. He said there were some crimes that were treatable. He wouldn't want to say we should abandon them. Tillion asked what he thought about the Langdon Clinic. Dankworth said it should be however you plan to do it. He said he wasn't very impressed with the methods used there. He said he was a strong believer that a lot of these people are addicted to particular things and they aren't going to go in and turn themselves in. Chance said the treatment works if the sentence is long enough. Banfield asked if this included those convicted of burglary and rape.

law and order

Dankworth asked what kind of rehabilitation program they could have for the rapist. The only thing for them is to be sent to the psychiatrist. This would have to be the prerequisite before releasing them. Tillion noted that they do it again after they are released. Banfield said that was her point--in the case of the arsonist. Maybe they kill someone while committing the arson. Should we do something to keep these people out of the community--protecting the citizen. Dankworth felt they should be put in the penitentiary for awhile. Chance said she meant that the treatment programs were supposed to be a part of the whole system.

The next witness was Tom Anderson with the CIB. He said there are three regions--Anchorage, Fairbanks, and Juneau. They have investigation units. You might have a homocide specialist or one who specialized in fraud cases--there wasn't enough specialists to get the work done. This was reorganized in 1971. They separated this into ten different departments. The CIB took the best people from these areas of expertise. Moved them into the CIB. We did this for several reasons. One was the complexity of the more serious crimes. It was impossible to function properly as an investigation unit for all ten departments. This way you could call on the specialists when needed. The smaller departments are not capable of handling certain types of crimes. Anchorage and Fairbanks are different, they are larger. Most are not capable of handling the complex cases. They can either do the best they can, don't do anything, or call in the CIB. There are also technical things such as photography, polygraphs, etc. This is basically the nucleus. The first unit was for major crime. Presently the unit covers homocides and natural death investigations. They would hope that rapes and other assaults could be included in their investigative program. The staff for that unit--three people in Anchorage and one in Fairbanks.

The Fraud is the most understaffed. It would do the most good if properly staffed. They have three working in fraud in Anchorage. This embodies credit card violations and white collar type crimes. These crimes deal with the business community. They are complex investigations and it takes persons who have accounting backgrounds to complete these cases. One investigation on three men took six months to complete and there is still followup to do on this. This was the investigation in Kenai. This is the area of organized crime--con games and fraud are associationed with organized crime. We constantly get requests from communities, private businessmen, and there isn't any way can handle all the work.

The third unit is the Intelligence Unit. This is the only offensive unit in the state troopers other than the public relations department. This unit tries to identify crime or criminal activities before they perform the act. We try to learn locations of known criminals. We try to anticipate what they plan and be prepared. We get information from the local, federal, or state police department. There are two of these in Anchorage and one in Fairbanks.

law and order

The fourth unit is the Drug Unit. This is the only one that is reasonable staffed and had an opportunity to operate statewide and that was because of the appropriation from last year. They have two men in Fairbanks and six in Anchorage local police department working with them. The federal drug people also work with them. They have taken a statewide approach to the drug enforcement. Metro approach in Anchorage-state troopers and city police were working in the same area--drugs. We tried to share the information but this didn't work. Basically, it turns out to be a separated force with each side doing its own thing.

The city felt this was important enough to support Metro. We formed this drug team. We set it up with three people supplied by the state troopers, three by the city, the city supplied supervision and the CIB supplied office facilities and the buy money and money to hire the undercover agents. This was supervised by the city police. This was housed in the same building as the State Drug Supervisor. It has been a real successful effort. Another important thing is that news releases come from only one source. There is no competitiveness of work because there is a common goal. In Fairbanks we had the same thing on a limited scale. It was informal--we set this one up formally. It was pretty well funded by the state and we supervised it generally. In the smaller communities like Juneau they have undercover officers. They make the cases than in cooperation with the local department they prepare a good case. They prepare the wrap ups while the local and the state troopers make the arrests.

The fifth is the lab unit. This is part of the auto theft unit, too. They have a polygraph examiner and explosive ordnance technician. There is the finger print expert and the auto theft investigator. They have various kinds of equipment--finger printing, X-ray, photographic equipment, crime scene kits and the mobile crime lab. This unit can go out to the call say of the Palmer local police--the unit moves to that area to assist. They turn all the materials found in the investigation back to the

local police. Sometimes they want the investigator, too. That is generally the makeup of our present CIB. There are other areas but it is because of the shortage of manpower that these have not been more fully developed. As an example, we need a missing persons department of some kind. We have a lot of these and no one is working of these full time. He thought we needed one or two people working with a statewide responsibility to report to the state and local police departments to coordinate the efforts in locating missing people. He felt the pipeline would bring about an increase in missing people. It was also bring an increase in vice, gambling and prostitution. There is no coordinated state effort in this particular area. When we are aware of a vice problem in a particular area, we need this type of unit. With the pipeline we know there will be great movements from Valdez, Anchorage, Fairbanks--no specific direction that we are taking addresses ourselves to the problem. Alcohol is another thing. Maybe we could include alcohol with the drug abuse unit. This is one of the biggest social problems. There is no enforcement on the person who is doling out alcohol. No investigations to try and get at the violator in this area. The ABC board has investigators but they are designed for licensing violations and not for enforcing the laws on the distribution of alcohol.

law and order

Orsini asked Tom if he had any recommendations on the legislation in front of the committee. Malone said that in the case of the units in CIB they would have a need for more personnel. He then asked if there was going to be funding provided in these areas. Colonel Dankworth answered this by saying that the regular budget did not have anything in on that but the impact budget did. There are three positions funded. There is one for Valdez and one for Glennallen and one for Fairbanks in the CIB. Malone said he had talked with Ron Nendry about arson in Alaska. Tom said that other than in Anchorage and maybe Fairbanks there are no arson investigators available in the state. The fire marshal has the inspector going over plans, but they don't have any personnel to go into the investigation of arson. Only in a serious case would the CIB be called and one of the men in the major enforcement unit would go out. He is a good investigator but is not an arson expert. These things go on uninvestigated. Malone asked if it would be possible to get some statistics on arson. Tom said he was told by the best sources that this state has a high incidence of arson. He said he could get some figures. Malone said he would like these within a week if possible. Tillion said that the underwriters show that 1/3 of the fires are arson. Malone said he thought there was some legislation that would alleviate this situation. They didn't seem to have any legislation on this subject now. Tom said they had passed on some proposed changes. One was on motor vehicle registration. We are among the top three states

in the nation for such violations. Stolen vehicles are numerous up here because there is no inspection. The title paper work is designed almost to help the crook. There is no checking or followup. We need an overhaul on this. Inspection would help a lot. Auto theft is costing the state a lot of money. This is not just cars, but every equipment, boats, or snow machines, to name a few. Malone said testimony had shown that in one area of the state one witness thought that as much as 97% of the crime was alcohol related. This showed a need for the enforcement of the alcohol laws. Do you think this would reduce the percentage of crime? He said he didn't know about the significance but felt it would make a difference. He thought if the bartenders were arrested that were pouring alcohol down these drunks' throats it would have to make a difference. Tom noted that Judge Guinn didn't think there was any drop in crime in Bethel. Tillion said there was an obvious decrease because now they realized how to get the booze. Dankworth said he had called the City Manager. There is just an unbelievalbe difference. This included drops in contributing to minors, minor consuming, all of these have gone down. 1/3 of what they were getting. They had 7-8 alcohol related deaths and they have had only one this year. Felony rates in the same period of time to the present time were 89 for last year - 84 this year. To this fact, you must add that they had four more policemen. Malone asked if it was illegal to import booze into the dry area. Tillion said No not for your own use. It is illegal to have in excess of certain quantities, but there is always bootlegging. Malone asked if they could get this on credit. They are not supposed to. Orsini asked how much of urban crime is alcohol related. Tom said that much of it is. He didn't know the percentage points, but it wouldn't be as high as the judge noted for Bethel. If you said drugs and alcohol I could say 50-60 percent but that would include traffic offenses. Orsini asked how much was drug related crime. Tom said it was 70-75 per cent in Anchorage. He didn't think it would be much below that in other areas. Orsini asked if felony type crimes were 70 per cent related to drugs excluding alcohol. Tillion asked how many known addicts there were. Tom said from 200-500. This is the figures they used for getting the contract for treatment. It wasn't very effective. There are a couple of problem areas. In the investigation of serious felonies--this is much more complex and time consuming that it was a few years ago. Without changes in the criminal rules, changes in the decisions in the courts, what used to take one month now takes up to four months. Some of the things you have to consider in fraud investigation are brought out in the Ladd case and Zieger case. The manpower is almost like a drop in a bucket compared to the costs of investigating some of these cases.

law and order

Chance asked Tom if he would approve of prohibiting the

issuance of liquor licenses to establishments that have nude entertainment. Dankworth felt they should outlaw that. Liquor licenses are issued according to population. He felt that the state should assure us that the neighborhood bar would have sober people coming out onto the streets and they should have their clothes on. As to the criminal aspect--there are a great many that are prostitutes. He said he would support a bill like this 100 per cent.

law and order

Chance asked if the handicap in the fraud unit was shortage of manpower. Would there be need for statutory changes. Tom said they started with good manpower at first. This was not only intelligent but also qualified people. But they have to have a special type of investigator that needs to have an accounting background. He has to take an interest in things. These are very boring cases sometimes. The fraud statutes are old and in the interpretation of our DA's office they don't cover the specific problems we have. The Consumer Fraud Act needs to be changed. He gave an example. He read from the statutes. He showed that obtaining money by false pretenses is really not included. The laws on this are poorly written. Banfield asked if this had ever been discussed with the AG's office so legislation could be introduced. Malone said there was a bill in on consumer fraud. Tom said he felt the committee should be wary of the fact the attorneys and legal profession feel a lot of these should be handled severely. There are definite criminal areas so that the investigator can go in and get an indictment and stop these people before they have left. Tillion felt that this bill addressed itself to that. Tom said that people are so used to being taken it is the accepted thing.

One other area--manpower and legislation. Now we need prosecutors. They are handicapped by a lack of people. He said even if they had the peopel on fraud prosecutions --they don't even go to the federal attorneys--they are not trained in this area. If you are going to be successful in complicated cases, you would have to have attorneys which are trained in these areas.

Chance asked more about auto theft, licensing laws and title laws. Tom told about the experience of a car dealer a few weeks ago. One of his salesmen sold a new car and took the other car on trade-in. It was determined at the time of title change that this was a stolen car. They contacted the person and confronted him with this and he said, "Well, that's too bad." Chance asked if there were any problems with the statutes. Would this instance be considered fraud? Why do we attack problems like this? Tom said this is a good example. We don't have anything on the books that says this about an auto. It is not against the law. The only thing appropriate in this area is that he obtained fraudulent application for title. All you have to do is sign an affidavit for rebuilding your vehicle--there are big gaps in the law.

Chance asked if in this case--could the sale have been approved or would you have to wait until over the week end. Tom said that is a civil area--not criminal. Chance asked if there was any way they could have apprehended this man. Tom said he didn't know.

law and order

Malone said Tom had mentioned missing persons. Some of these might be uninvestigated homicides. Is there any information on this you could give to the committee. Tom said Yes. Banfield asked if there were very many of these. Tom asked if she meant did they investigate. Banfield said we always see these things in the paper. Orsini asked if he could differentiate between juvenile and adult--when he brings in the figures.

Tom, back to autos, said there was also licensing for wrecking yards. There are certain laws requiring them to do certain things with the junk vehicles. The laws we have and operate under are unenforceable. This is also true with respect to auto inspections. Tom said that Jamie Love has information on auto theft in his report. Mr. Hickey asked to comment on the incident being discussed by Chance. It was a good possibility that that person could have been charged under the receiving stolen property offense. There are technical problem with that statute, though. There is a senate bill to cover this.

Orsini said his constituents are not interested in car thefts but are very much interested in what can be done about rape and murder and crimes of violence. Chance asked if there were other specific areas that he came into contact with that we might need to make some corrections. Tom said the criminal rules were hurting them. The discovery thing - rule 16 - we are giving everything to the defense. There is more perjury in our courts since these rules came out. Tillion said he had mentioned this earlier--defense has to come forward with their alibi. Tom also mentioned Rule 15 on depositions. This doesn't seem necessary. He had another suggestion--he things the legislature in conjunction with the AG'S office should look at the criminal law on fraud, burglary tools, narcotics paraphernalia and the motor vehicle thing. Tom, in answering Mrs. Banfield about the emphasis on marijuana, when we got the appropriation this was to make an attempt to close the borders--points of entrance into the state. One of the areas was Tok. The more serious cases--heroin are big cases and the federal government prosecutes. The ones on marijuana are turned over to the state. These cases, or the bulk of them, are generated at the border. Also, marijuana is getting more plentiful. There is so much of it--you find it in routine patrol arrests. Thirdly, it makes no difference where you go in this state--Seward, Homer, Wrangell--marijuana and heroin are there on the same scale. So when they send in the undercover people they go in and make drug

cases but because of the high incidence of marijuana you will find a high number of arrests for this. Tom said that in Anchorage they are concentrating on heroin and cocaine and it takes time to develop these heavy cases. Banfield asked how they got three assault charges in among these drug cases. Tom said these were things that happened during the arrests. He said the concentration on the borders has given Alaska a reputation on the highway--they say "Don't come up here on the highway with drugs". Tillion said until you start busting the addict you aren't going to control drugs.

law and order

Malone noted that tomorrow we would be meeting for confirmation hearings on Pat Wellington and Norman Gorsuch.

Orsini asked Jamie Love if he was going to testify. Tillion said he didn't see anything significantly different in Jamie's report than what these people were saying. Jamie said that he had made an effort to cover the major areas mentioned in the testimony. He said committee members could go through the report and identify specific problem areas. Orsini asked about what Jamie had recommended for CIB. Jamie said he had recommended 32 new positions with 9 new DA's. In general, he has concurred with what the major branches of government have testified. Malone said there were some things different because he had been cross checking the report with what the witness had to say. Tillion said rather than having Jamie testify before the committee--when we are going through the bills we might invite comments at that time. Tillion said that one of the biggest things about positions on the state parole board is that no one will ask for more positions.

Meeting adjourned at 5:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 7, 1974

The meeting was called to order by Chairman Tillion at 3:20 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Malone, Chance, Beirne, and Berry.

Confirmation

This meeting was devoted to confirmation hearings on the fitness of J. Pat Wellington as Commissioner of Public Safety and Norman Gorsuch as the Attorney General for the State of Alaska.

Both men gave a history of themselves and related their financial situation to the committee. Mr. Wellington told the various places he had lived in Alaska; where he had been educated; and gave a background of his police work. He said he had never been arrested except he got a speeding ticket a year ago.

Malone asked Mr. Wellington how he saw the future of the State Troopers for Alaska. Mr. Wellington said that he had hoped they could get out of the municipal type things. He said he would like the troopers to become expert in criminal investigation within the state in order to help some of our communities when they have problems. He also envisioned more enforcement for the rural areas. Next on his list came training--there is never enough of that it seems. He said he thought that in the next few years it would be up to the State Troopers to provide most of this type of training.

In summary, he said that the main goals would be adequate law enforcement in the rural areas and more training.

Mr. Gorsuch gave similar type testimony as Mr. Wellington. He told where be was born and where he was educated. He had practices in private law concern for four years in Anchorage. He mainly specialized in natural resources law, administrative law, and commercial law. He also did some criminal defense work.

Chance said there one thing that always comes up about the AG's department. This refers to the functions he performs and an alleged conflict of interest that can be built into the type of executive system we have. You serve as legal counsel for the governor and still head the criminal prosecution aspect. Chance asked Mr. Gorsuch what his feelings were on this. He said that he didn't think that there was a conflict and believes that they are separate and distinct things. In criminal prosecution he uses his professional judgment no matter who is involved. The fact that the AG is appointed, in his opinion, has not affected the AG from advising agencies and the governor--sometimes this is very uncomfortable. Chance asked if he favored separating the two aspects. Administratively--having an assistant AG

handle the prosecution. He said Yes. One of the things he has observed is that the AG's time is taken up with the civil side of the state's business. There is land withdrawals and the pipeline--these involve civil matters.

Confirmation

He said that he had asked to have a position to have the civil section in one part and the criminal section in another. This would provide for the person to establish policy development in the criminal justice field. There would be liaison with the police. He felt this was a good idea. He hoped that the legislature would look upon this plan favorably.

Chance asked Mr. Gorsuch is he found it difficult to serve as the personal legal counsel for the governor and to also serve the public. He said that from his personal experience he had never been aware of any problems. He said he had only worked with one governor--that may make some difference. Personally, he had not found this to be a conflict.

Mr. Gorsuch said that the Governor has always been cooperative.

Chance moved that the committee recommend the confirmation of both Mr. Wellington and Mr. Gorsuch. They were unanimously confirmed and a letter was written to the Speaker of the House stating our position. The secretary will prepare a letter with places for all members to sign their names.

HB 311 - Licensing of masseurs and massage businesses. The Chairman announced that there will be a hearing in Anchorage on Saturday, March 9, 1974. This will be an official committee hearing and a secretary will accompany the legislators. Beirne said that she objected to the terms used in this bill because there are some legitimate massage businesses and this lowers them all into the realm of prostitution. She didn't think this was right. Tillion said if this bill passed and the City took advantage of it, then things would change.

HB 31

Meeting adjourned at 4:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, March 11, 1974

Chairman Tillion called the meeting to order at 3:15 p.m. in Room 104 of the Assembly Apartments. Present were Banfield, Tillion, McVeigh, and Malone.

Grand juries

There was discussion on a resolution relating to grand juries (became HJR 93). In discussing this proposed legislation, Tillion thought that maybe we shouldn't remove the case where a person could waive indictment. This would allow the judge to indict without waiting for the grand jury. HJR 9

McVeigh said the DA has to file a complaint and the judge has found "probable cause" before they can do this. Banfield said this is one way to cut down on time and money. Tillion asked if there was any objection to introducing this resolution and submitting it with a signed committee report. There was no objection.

indigent defendants

The next subject for discussion was indigent defendants. (Became HB 777) This is to make sure that fellows like Ladd who have thousands in assets and cash, pay at least a portion of their legal fees. Tillion didn't think the Public Defender should have to decide which ones will pay and which won't. He mentioned Jamie Love's report showed the importance of this. People, when they lie to a judge can be held in contempt of court or charged with perjury, but when they lie to the Public Defender, you can't do anything. Malone asked if the members of the committee had seen copies of the Public Defender's report. This is one of his recommendations. The clients may be indigent at the time they need the counseling but a few years later get some money so the agency bills them at that time. This is expensive to take on the responsibility of collecting. They usually collect from the poor people and not from the bad ones anyway. (Berry arrived 3:17) Snowden said they didn't necessarily want the honor, but felt they were in a better position to do it. Banfield moved and asked unanimous consent that Judiciary sponsor this bill and submit it with a committee report showing "Do Pass" recommendations. McVeigh seconded the motion. The bill was signed out. HB 77

Discussion returned to (HJR 93) grand juries. McVeigh said this would all but eliminate grand juries. You are giving the DA the discretion--the judges do not file complaints as a matter of practice. Grand juries can be used effectively by the DA's. This takes the heat off him (the DA). Orsini asked what it would do. McVeigh said that it permits the DA to file complaints JHR93

HJR 9

nd juries

or information with the judge directly and after a hearing the person can be held to answer or go to trial for probable cause. Under the present system you have to be indicted by a grand jury or waive this step in the proceedings. This leaves the whole system intact by permitting the DA to file directly and not wait for the grand jury. Malone asked if a person ever has a preliminary hearing and then goes back before the grand jury. McVeigh said that now you have a preliminary hearing to determine probable cause in order to hold a person under bond. Another thing--grand juries meet only once a year. That means you would have to hold a person for 11 months and maybe he wasn't even guilty. To obviate that, they asked for a preliminary hearing.

Banfield moved and asked unanimous consent to introduce this resolution and submit it with a signed committee report with a "Do Pass" recommendation. There was no objection. This resolution was signed out.

Aggravated Assault

HB792

Aggravated Assault ("C") was the next subject for discussion. Banfield felt that this is mandatory sentencing. Tillion said that Mr. Snowden said we might work at both ends as long as it is reasonable. The court isn't going to object to this. Banfield asked what we were repealing. Randy read 11.15.220. Tillion said that this rewrites the aggravated assault portion. This used to cover just shoving somebody. Randy said that it adds a paragraph too. (Chance and Beirne arrived at 3:27) Banfield asked if you aren't armed with a dangerous weapon, how can you commit aggravated assault. McVeigh said you could do this by kicking somebody. Banfield asked if the penalty was changed. Berry said it wasn't. Malone said you could assault someone without a dangerous--with your bare hands. This wouldn't be a felony. McVeigh said that this sometimes happens.

Malone moved to have Judiciary Committee introduce this bill and have it referred back here. There was no objection. There was further discussion on this matter.

Malone noted that there are two sets of penalties in the bill. McVeigh said that was right. If it were a lesser offense, then it would be simple assault. If there is aggravated assault then it would be a felony. McVeigh noted that the DA has to charge them with the section on aggravated assault. If a person at a corner bar hits another person on the nose this would be simple assault. That is covered in another section of the code. They are getting in the aggravated assault and adding the vicious beating type thing. Tillion asked if the little old lady who attached an officer with an umbrella--would that be aggravated assault or would she be charged with a misdemeanor.

McVeigh said this would be simple assault. This law is still on the books. Malone requested that we take this up again tomorrow. The only question he has is on the two sets of penalties. Orsini also questioned this. McVeigh said they were permitting a misdemeanor. McVeigh asked why we didn't strike the misdemeanor part. By definition it is no crime which you do over a year in jail, this is for misdemeanor. A felony is when you can get over one year in the "pen".

Assault

This bill (HB 792) will be introduced and referred back to the Judiciary Committee.

HB792

McVeigh felt simple assault was already taken care of under present law. Tillion asked if the committee would rather have that part removed and vote it out "Do Pass" today. Banfield suggested we delete everything about fines by putting a period after "months" on Line 16. Tillion felt we should leave the fines in the bill. Randy suggested saying "or both". McVeigh felt we had better set the limits on the fine. Tillion thought it was already there. It says "or" on Line 17. Banfield suggested that this be introduced properly without any amendments. Randy will prepared this according to committee amendment. After this is rewritten, it will be brought back to the committee and introduced as a Judiciary Committee bill.

Governor's Commission on Criminal Justice was the next item for discussion. (HB 778) This relates to the Division of Corrections not being on the board, but the Commissioner of Health and Social Services is the one designated. Banfield said if we expected the commission to be effective she felt that the director of corrections should be on the commission. Tillion noted that quite a few people feel that there should be a separate division of corrections. Banfield moved and asked unanimous consent that the Judiciary Committee introduce this bill and submit it with a committee report signed with "Do Pass" recommendation. There was no objection. It was noted that this may be considered as a slight by the Commissioner of HESS but that it was not meant to be that way.

Commission on Criminal Justice

HB778

Professional State Board of Parole. (HB 776) There was some discussion on this measure. Malone moved and asked unanimous consent that the Judiciary Committee introduce this bill with the request that it be referred back to the committee. There was no objection to this.

Parole board

HB776

SSHB 511 - Release on Parole. McVeigh said that this has reference to the judge letting them be released before they have served 1/3 of their sentence. The federal statute provides a point blank one third. There is no reference to the judge intervening again. This has been upheld in the U.S. Supreme Court.

Release on parole

SSHB 1

ease on parole

McVeigh said that HB 511 has some other problems. Under our present statutes there is a question as to what exactly could happen under the bill. There is a difference between probation and parole. It is defined in the statute as probation is given by the court and they assign the appropriate agency to administer the same. Parole is under the Parole Board and the board does the supervision. There is some question about the person who gets a three-year sentence with two years suspended. He would then in effect have a one-year sentence and would have to serve four months. He would go under the jurisdiction of the Parole Board for the balance of the time, or the 8 months, which puts the individual under another system--under probation which the judge ordered or would they be under the parole board. Or would the person answer to the parole board for the whole three years. There is a great deal of confusion on things of this nature.

Tillion said that this is already in the statutes. Chance said she didn't feel if the person were put on probation that they could come under control of the parole board. McVeigh felt that we should straighten this out to conform HB 511 that would eliminate this confusion. He suggested we follow the guidelines of the federal statutes. Berry said there was one question--there is no definition of "sentence imposed". Would this be the full three years or only one year, since two years had been suspended. Do you take only the part they have to serve? There is a question here. Tillion said you would have to specify in the statutes whether you meant the full sentence or the full jail sentence. McVeigh said that the administrators might read the law differently.

Chance noted that the parole board has authority when the individual is coming from confinement. The parole board doesn't have any authority when the court orders probation. Both are under the Division of Corrections.

McVeigh wanted an explanation of the 180-day rule. Tillion said if we make this change, the 180-day rule will be eliminated. McVeigh didn't think it would. Tillion agreed that it wouldn't change it, but that we should probably drop it. If there is a good reason to keep it, then we should keep it; but, if not, we should drop it. If we do this we may be swamping the parole board. McVeigh will check into the reasoning behind the 180-day rule.

Runaway minors

SSHB-43 - Runaway minors. Malone felt this was basically covered in the statutes. He read 47.10.140(f).

Orsini asked how detaining was different from arrest. Tillion said they didn't keep a record for detaining but for arrest they did. Chance said the only choice the runaway minor is given in whether he is going to
runaway minors/go to some agency or back to his home.

McVeigh felt that the 1972 statutes covered this. Chance said it didn't because this makes it arrestable. Puts them back under juvenile delinquency--or a delinquent act. McVeigh felt that present law was adequate. Malone said this would allow them to pick them up. They can take them back home or turn them over to the department. Orsini asked about the age. Tillion said this only says that they cant arrest them and hold them say in the drunk tank.

increased punishment for prior conviction.

Banfield asked to consider House Bill No. 562 - Increased punishment for prior criminal conviction. She asked Mr. McVeigh if there was any reason that that shouldn't be mandatory. Tillion didn't think there anything wrong with it. Malone said it appeared to make the DA bring the habitual criminal up for mandatory sentence. Tillion said this meant they had to be a four time repeater. Malone said that it dealt with whether or not you wanted to salt these people away. Tillion gave the example of Eben Lewis giving a dope pusher on the 7th offense a one-year sentence. McVeigh noted that "before conviction or while sentence is effective" did not indicate that this was relating to the habitual thing.

Chance asked what secs. 40 and 50 referred to. Malone read from the statutes--you must have been convicted three times in this state. There is a list of various crimes on which you "shall" be judged a habitual criminal. 50 says you will get increased punishment for more than one felony. The fourth time he will be adjudged an habitual criminal. McVeigh asked why, with regard to HB 562, this statute was on the books. Tillion said that this is a major piece of legislation. Keep in mind, it still takes four convictions. Banfield noted that there was increased punishment for the second, third, and fourth. McVeigh said these were double the maximum. Malone said on felonies if you had previously been convicted of one he gets a minimum or not more than twice the sentence; for two it is the same; and for three or more he gets 20 years to life. Banfield said that you should remember that all felonies are not murders. There are a lot of felonies that are victimless.

criminal records

The committee moved on the HB 563 - Requiring transmission of criminal reocrds and data to the offender's place of imprisonment. There was discussion about adding "copies of" on line 13. This would eliminate the possibility of the originating agency having to give up its original records. Banfield moved for adoption of this amendment. There was no objection. Banfield moved and asked

crim. records

unanimous consent that the committee pass this bill with a "Do Pass" recommendation along with the amendment. There was no objection and the bill was signed out.

HB56

Presentence reports

HB 566 - Presentencing reports. Malone said that he was not convinced that the Division of Corrections needed four extra people to put out the presentence reports. Tillion said that the rule had been changed by the Court system. They said if we didn't fund it they would have to change the rule again. Malone said Mr. Adams felt they would need four more men to make up the presentence reports. Malone wants to have some more information on this.

HB566

Prob. & parole violators

HB 568 - Probation and Parole violators. There seems to be a conflict between probation and parole. McVeigh said that probation is now with the courts and parole is under the executive branch. Malone said it would be hard to fulfill sec. 2 unless a parole board is pretty busy all the time. McVeigh thought they were connected with conference telephones. Banfield asked if they couldn't revoke automatically when the person has defaulted. McVeigh said they couldn't. He said you could be out on parole for a serious crime and you have to obey all local, state, and federal laws. This means that you may even be guilty of receiving a parking ticket. Maybe he would get arrested for DWI. Automatically the board would look at that but it would not be mandatory revocation. McVeigh said that he was arguing against the mandatory business.

HB568

firearms in licensed

HB 633 - Carrying of firearms in places licensed to sell intoxicating liquor. Banfield suggested that we tell Mr. Urion that we appreciate his concern but felt that this is not the best way. Malone said that a person is breaking the law if he does this now.

HB633

concealment of merchandise

HB 749 - Concealment of merchandise. Malone thought a person was liable civilly for this now. Tillion said that was true except this allows the merchant to recover up to $100 even if the item was of small amount. Malone said that this also makes the parent or legal guardian liable up to this amount. Chance asked if you took something of value over $200 would you only have to pay back $100. Tillion asked if we wanted testimony on this. McVeigh suggested that we just put the bill out. Chance said she felt that every parent at one time in their life had to go back to the store to make amends for stolen candy. McVeigh said this wouldn't be mandatory. Malone moved and asked unanimous consent that HB 749 be signed out "Do Pass". There was no objection. Genie Chance signed "no rec".

HB749

inter-state acquisition of criminal justice info.

The next item for consideration was HB 753 - Interstate acquisition of criminal justice information. Banfield asked if subsec. 3 was a new section. Chance said that it was. Section 3 is directed to the law enforcement agencies and prevents them from putting in information because it doesn't have the safeguards and this requires then to add disposition of cases. Chance said that sec. 3 says that the information into these systems--law enforcement agencies shall contact those agencies and inform them of the provisions. They would have to have the information purged if they fail to put in the safeguards.

release on bail

HJR 66 - Amendment to Alaska Constitution relating to release on bail. Tillion said this appeared to be no longer necessary in view of the recent superior court decision. Reasonable bail doesn't mean that a person posing a threat to the community is to be released on bail. The judge can hold them. Malone asked about the decision--it was the Martin decision. This was relating to bail. McVeigh said that under the Alaska Constitution you have the absolute right to bail. The judge can take into consideration the factors and set the bail at a very high rate if he sees fit. Banfield said if that was the case we wouldn't need to pass this resolution. Malone said he was not in favor of the constitutional amendment. He felt that the court has within its power now to set a high bail and the conditions for release. McVeigh said there is one thing wrong with that reasoning. You may not do indirectly what you can't do directly. You can theoretically say you will set bail at $200,000. This case will go right up on appeal if this happens. They will say it is depriving them of the right to bail. If this goes to the people and it amends the constitution, that will avoid that problem. Malone noted that we were talking about an accused person who has yet to be convicted or a crime. McVeigh said the judges seem to think they can set the bail high enough to deprive that right. McVeigh doesn't think this would hold up in court. Chance said she thought that the US Constitution had the absolute right to bail. Malone didn't think it did. Tillion said that under the English Bill of Rights it was merely that bail should not be excessive where it is proper to grant bail.

Chance said that bail is for the purpose of assuring the appearance of the person in court. Malone said that bail is to be allowed under our constitution for Alaska except for capital offenses. We don't have any capital offenses in this state yet, so they can't refuse bail.

McVeigh felt the court would agree with what Hugh said. If you pass this resolution you avoid the problem. HJR6

Release on bail

Malone asked how to enforce conditions of release. They said this had been discussed and there didn't seem to be any way to do this effectively.

Tillion said we are going to have to change the State Constitution because the US Constitution doesn't bind you to release on bail. McVeigh likes the resolution because it still leaves the judge in charge. There are dangerous people--we all realize that. In most of these cases you would have to have a finding upon evidence and that should be safeguard enough. Orsini moved and asked unanimous consent that HJR 66 be signed out. Malone objected. Banfield, Tillion, Orsini, and McVeigh signed "Do Pass"; Chance signed "no rec"; and Malone signed "Do Not Pass".

excessive bail

HJR 71 - Excessive bail. McVeigh says that this does not allow excessive bail. Banfield couldn't see the purpose of having this. Tillion said that the people from Eagle River wanted this. Malone proposed an amendment. On line 12 after the word "imposed" delete everything down to and including the word "inflicted" on line 13. McVeigh said he was taking out the part on cruel and unusual punishment. Malone felt that it would accomplish the same thing with his proposed amendment. He said that he had voted for a constitutional convention and they could have considered these things. He felt it was right for the legislature to go into these things from time to time. HJR71

Orsini moved to bring HJR 71 out. Chance objected for the purposes of preparing an amendment. Malone suggested after the word "punishment" on Line 15 to delete all the rest of the sentence and add " to the satisfaction of the public". Chance said she felt we should recognize punishment as part of the treatment. It is not necessarily going to deter future crimes and probably you will not be able to satisfy the public. McVeigh said you would have to determine what is the proper punishment. Orsini suggested that we put new wording after "reformation" make it so that both reformation and punishment will be the deterrent to future crimes. Chance said she would object to that. Banfield noted that there was a motion on the floor. Chance withdrew her objection to Orsini's motion. Motion failed with Tillion and Orsini voting to bring HJR 71 out of committee.

Meeting adjourned at 4:55 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, March 12, 1974

Chairman Tillion called the meeting to order at 3:27 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Banfield, Berry, Chance, and McVeigh.

HB33

alien ownership

The first item of discussion was HB 335 - Alien ownership of land. Tillion said that we needed some way of requiring corporations to list percentage of alien stockholders.

Randy said that he had a copy of the US-Japan treaty and he things it would be difficult to restrict ownership of alien businesses. Tillion said we needed to stop the purchase of raw land. Mr. Urion testified on this measure. He was in favor of the bill. He said it has been his concern that we have had an over-investment of aliens in the State of Alaska. The purpose of this bill is to stop it. We specifically excluded the land used directly and land used for natural resources--this covers Sitka, BP, etc.

He said that the real estate agents are already stopping sales to aliens--watching the progress of this bill. In Anchorage, that is. Some of these people have never been in Alaska. Banfield suggested that you make them pay the property tax in person. Chance felt we should put in a grandfather clause; those that are here now would be exempt. Mr. Urion said if they owned a gold mine they couldn't own a lot in downtown Juneau, for example. What they own has to be directly related to the development. Chance asked where it said that in the bill and Mr. Urion said it didn't exempt just the land they have. He felt there should be an amendment prepared. Tillion said there was an amendment attached to the bill and read same. This added a 'corporation authorized to do business in the state and principally engaged in the exploration of minerals'. These would be exempt from (a) and (b).

Banfield asked if this would include companies that own fisheries. Tillion said that it would. It seemed reasonable that if you were going to prohibit ownership then the leases should be longer than 5 years. This should cover only the leasing of the land.

Chance said if you didn't allow a grandfather's right then BP would not be exempt. Tillion agreed with that. This would protect the BP building and the oil is only leased to them. This way they wouldn't be effected. Chance did not want to put them into a situation where they would be forced to sell.

Chance didn't think you could force people to dispose of property that they own. Tillion agreed that they should be able to lease land and own building and ownership/appurtenances which they own and to put them under the grandfather right. Tillion felt you could increase the lease time to 25 years so if you put a building on the property you could get the use out of it. Chance asked how long it would take to amortize a building. Mr. Urion felt it would be about 25 or 30 years. HB335

Chance asked about timber. Tillion said that a mill will be done in 25 years. Randy will draw a CS with a grandfather clause; 25 year leases from this time forward and then we will look at it again.

Chance felt that the lease would have to be as long as the state usually grants leases which is 55 years. Tillion said there was nothing in here that said they couldn't renew the lease. McVeigh said he would sign "no rec" because he is afraid of the constitionality. Banfield said she wanted the opinion of some lawyers before she decided. At this point she would sign "no rec".

Randy noted that this bill only covered those aliens who are not residents of the United States. Tillion said this makes allowance for those aliens who want to become US citizens. Chance wanted the definition of a "resident alien" and an "alien". Randy said an alien is lawfully admitted and the person has gone through the procedures--they are not classed as tourists. Tillion said that when people come into this country to work on a project they are not legally entered aliens. They are not among those who have the privilege of becoming a citizen when their three years are up because they did not come in under the quota system. Ones that come in to work for BP cannot change jobs and go to work for ARCO. That is because they are working for their own national government. Chance asked Randy to check the difference between the resident alien and the others. She also wanted to know about "legally entered" persons.

Bd. of Fish and Game

HB 499 - Boards of Fish and Game. Mr. Wilson is sponsoring this bill and is here to testify in its behalf. Tillion noted that Resources had submitted a CS they had worked up but had never passed in their committee. Most of the changes were from Terry Gardiner. The Resource Committee did not agree with all the changes in the bill. HB499

Mr. Wilson said that the main reason for the bill is the time that the board has been taking to cover fish and game regulations. The time is getting so long every year that it is placing a real hardship in some phases of operation.

Bd. of Fish and Game

They only open certain portions of their regulations because they don't have the time to consider them all. The laws are more sophisticated now and get into more areas. For instance, the crab situation. Ten years ago we didn't even have an industry. We are developing more areas. The board went from 10-12 members. A large board has a difficult time agreeing, just as large committee in the legislature has.

Another thing, with regard to the length of time they are spending on things, it is not practical for a citizen to serve on ths board. They serve with no pay and it is becoming too time consuming.

If you split this into a board of fish and a board of game it would shorten the length of time anyone would have to spend on board business. Right now the majority of time is spent on matters relating to fisheries. As a single board they would still need more time than a game board. At least this is the feeling that is coming from the Interior--the board is not giving enough attention to game regulations. They feel commercial fishing interests are getting more attention. That is the basic reason for introducing this bill. This would allow more emphasis on each part.

There is another thing, too. To find a person who is so knowledgeable in both fish and game is very difficult. To be effective on the board they would have to have a wide knowledge of both fields.

Banfield noted that on page 13 that reference is made to the removal of the commissioner. Tillion said that that was in existing law.

Wilson said that the original bill set up seven member boards and the CS called for five-man board. He said he doesn't feel strongly about this.

There is a major part in the bill on the method by which a member of the board can be removed. This is at the bottom of page 5. The reason for this was that a lot of people felt that if you could get some continuity to the board this would be beneficial. Whenever there is a change in administration--you have a new board. This is a controversial point. This is an attempt to take it out of the arena of a political job. (Malone arrived 3:45)

Mr. Wilson said that he had received support of this bill from the New Miner in an article from the Fairbanks Advisory Group and Alaska Professional Hunters are supporting the concept. He has had no formal opposition. He said he didn't know what the Commissioner of Fish and Game thought about this bill.

Tillion noted one change in requirements for a board

member is that they can't be involved in the business. Wilson said this could be controversial.

. of Fish Game

Mr. Specking said that there are those that advocate separating out sport fishing from commercial fishing but it is recognized that you couldn't do that. You can't manage the fisheries separately. That's why they have provided for a board of fisheries in this bill. Fish and game are two separate arenas of endeavor. These could well be managed separately. Mr. Specking said he did not agree with Terry's amendment on the size of the board. He said he was not completely polarized on the concept of the conflict of interest as noted in this bill. This may be difficult to determine. He shared Mr. Wilson's view that this has been asked for from a large area which he said he was representing.

HB499

Specking felt that the board should only post those items that they want for discussion rather than opening up all of the regulations. This just doesn't lend itself to good management. He suggested that perhaps with a separate board this problem could be ameliorated.

Wilson said on the "vested interest" thing he had talked to Terry and could see that you want to have someone knowledgeable in these matters on the board. The fishermen wanted that stipulation in there on the Limited Entry Board so we though it had some merit. Tillion said some guides might object to being screened off the game board. Chance said if you took somebody who didn't know anything about fish or game and put them on the board then you will have problems. Tillion explained how you could have biases in fishing matters. Seiners look at things differently than gillnetters, and on down the line.

Chance asked about the language on page 2, line 12. This says that each board may employ...doesn't the department hire the people? The hiring has to be done by those that can budget for the personnel. Wilson said that would raise a problem. She next asked about the confirmation--appointment made by the governor subject to confirmation by the legislature. Tillion said this is the same for all confirmations. Terry said it was to be submitted at the next regular session. Mr. Specking said this was a housekeeping thing and should be changed. Banfield asked if the board at this time had a budget. The Commissioner of Fish and Game appropriates the item for board expenses. It is a part of the department budget. They also provide all supportive help. Banfield asked the Commissioner how he felt about the board having their own employees. He did not think it would be helpful. This is because of the type of help that the board needs.

Bds. of Fish and Game

The work is so technical and varied that we call upon a variety of people within the department to furnish one particular type of assistance. A single individual would not be able to do this. Banfield asked if the commissioner envisioned the board having an exectuive director. She said he would hate to see that. This would put a middle man between the board and the department. He felt the closer the contact with the board, the better it would be.

Mr. Specking said that he agreed with the commissioner. He didn't see any need to change the budgetary support methods--except that now you will have two boards.

Banfield asked about the board having hearing officers. This is on page 7. Specking noted that you are talking about formal hearings under APA. The commissioner said that the only hearings in the past involved charges brought against guides and this was for revocation of their license. That function is now in the new guide licensing control board in the Department of Commerce. From time to time it may be necessary for the board to hold hearing where certain of their actions are attacked on the basis that they change the status quo and determine someone's interest. Before they do that, they would probably have to hold hearings and it may be cumbersome for the whole board to do so. This may come about by the board closing the season say on king crab in a given area and the fishermen maintain that the stock would sustain an additional harvest without harm. Their interests are being damaged by the board's action. The season was open but the board chose to alter the status quo and make a change not in the interest of the public. To avoid having a challenge in court and the judge granting an injunction, it may well be advisable before taking this action to hold a hearing. You would have to make certain that you bring out the facts that the public interest or the resources themselves require this action. This has not come up but we have expected it to from time to time. There might be merit in being able to hire a hearing officer. We take care of that for the board now.

Banfield felt this was already covered under APA. Randy said this was not necessarily true. The department would be allowed to use a hearing officer if they needed one. It says they "may" hire. Banfield said she wanted to make sure that administrative hearing officers would be limited to APA proceedings. Randy said this would be "as needed" rather than a full time hearing officer. Banfield felt that an active board may need additional legal counsel. Chance felt that the Department of Law could hire additional counsel to have them available for the board. Tillion said they do this and then keep them for their own cases. Chance said she didn't mean that. She meant for specialized cases they have the power to contract

legal services. Specking said he didn't think we should allow the board to retain legal counsel. The AG's office has that role. He said he saw some real problems when you leave that in.

of Fish
Game

Terry said he though people wanted to change how the board functions--about hiring their employees--the reason it functions the way it does is because of the way it is set up. For some reason, the board hasn't been able to make decisions on important things--as they now function. The problems that Wilson and Specking alluded to is philosophy and this is detrimental to the resources. He said from Ketchikan they had a really good person on the board but the other fishermen in the community say they don't want him on there because they want to put a seine fisherman on the board. He said it was not his idea to have the board be an independent arm of the government where they would hire their own executive director, lawyer, etc. The local people want some kind of input. We want to make the board flexible so we don't have to handle legislation like antlerless moose hunts. If there is a better way to do this, he is all for it.

Commissioner Brooks asked Terry how many board meetings he had attended. Terry said he had attended two. The commissioner said he could only disagree with Terry's comments and suggests to the committee that they are largely incorrect. Board members are not appointed on the basis of campaigning for a candidate. They are chosen to meet the toughest resource management problems. They have faced up to them, too. The commissioner felt the board had done a good job. Tillion said we have never had a bad board. He said there is a political problem, though. Lots of the little villages feel they don't ever have any input and the advisory board is not satisfactory. He said he could see Terry's point about the hearing officer--they listen to the whole thing and then he tells the results to the board.

Commissioner Brooks said he would like to point out that there are advantages and economies in our present system beyond those that would be realized in the proposed legislation. We now have a 12-member board. By being large it brings knowledge and representation from many parts of Alaska. This is what the people have been asking to have--wider representation. You cannot expect a five-member board to represent all of the areas of the people concerned that a 12-member board would. With only five on the board he felt this would leave huge areas uncovered.

The present board holds two meetings a year--sometimes there is an additional meetings in between. At the spring meeting they take up critical fisheries matters and the fall meeting particular commercial and sports fishing matters and important game matters.

An additional board would also have to have two meetings a year.

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He said that he had heard criticism on the board for only opening certain sections of the regulations--these generally are the important sections. The regulations of the board are the only ones known that are thrown open to the public for complete change and revision each year. This was getting to be a game with the public so we had to limit the sections opened to change. There are hundreds of proposals presented. The board found themselves bowing to the strong aspirations of the public and ended changing the regulations back and forth. Our intention was to only open the sections that deserved the board's attention. This is not an efficient way and doesn't work for good resource management.

HB4

Then there is the vested interest subject. Commissioner Brooks said he didn't know how long it would take a layman with no expertise in fisheries to absorb enough information so that he could made an intelligent decision based on the various options among the competing interests involved. He felt that it was essential that the board members have a good knowledge of the resources that they are responsible for managing. Just as long as the individual doesn't use his position on the board to his own personal advantage, there should be no objection to them being a fisherman, guide, or whatever. He said as far as he knew this has never happened, where an individual used his position to his own advantage.

The commissioner said he could see no advantage in dividing the boards. He felt there would be lesser representation on the board and it would be more expensive. There would be the same number of meetings as the single board--two a year for each--and each of the meetings requires the attendance of staff members. There is also a great deal of preparation for these meetings. Tillion said there wouldn't have to be any overlap. Mr. Brooks said they usually scheduled the meetings to take care of one type of thing first so a person interested in game matters wouldn't have to sit through the whole meeting. He said their advisory committees are working quite well. There are some problems in remote areas. This is where you have a native regional corporation or a village council and they prefer to speak out on these things. They view the advisory committee as a separate entity rather than an advisory committee of the board and this has made it difficult in certain areas to activate the advisory committees. Splitting the board is not going to have much effect on how the advisory committees function.

Malone asked how people got appointed to the Advisory comm. Brooks said they are elected.

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HB49

Mr. Wilson said that in his area they were elected. Mr. Brooks said that the department staff get a group of people together and they agree to set an advisory council. The Department of Fish and Game approves the individual. They nominate and elect any replacement when a member drops out. The committee is a self-perpetuating thing.

Banfield asked Mr. Nelson what his opinion was on this bill. He said that he could represent the Sportsmen Council since they had met in Fairbanks in October. They represent sportsmen from Ketchikan, Juneau, Haines, Anchorage, Fairbanks and Homer. They don't pass a lot of resolutions when they meet--only those that they all pretty much agree on--they presented a resolution to the governor and the legislature to form a game board of no more than 5 members. This is for the specific purpose of the management of game. The people in the Interior felt that the board has been pro-commercial fisheries and the amount of time spent on that outweighs that spent on game. He said whether this was true of not was immaterial, but personally he thought this would be an improvement. He felt that if you had a board of fisheries and a board of game that each would develop its own finesse in their own particular fields. He said this was a terrific job because it involves so many fields. He said that even five states of the United States didn't have the problems we have. He felt this would be an improvement, therefore he was for a five-man board.

Mr. Nelson felt that one of the biggest problems with the board was that they never had legal help. When they did get it it would be on the spur of the moment and they were at the mercy of the AG. We have attempted to get legislation for this. Mr. Nelson felt that the department should have full-time legal help. Technically he would work under the direction of the AG but he should be stationed with the administration of the department. This has been a bad weakness. Legal help just was not accessible when needed.

Mr. Nelson said he would like to comment on a 7-man board. What is likely to happen--he preferred 5--the more special interests you could have. If you started out with five next year someone will come along and want to increase it. Tillion suggested leaving five on game and expanding the fishing board. Specking suggested leaving the existing board as the board of fisheries and establish a separate board of game. This might meet the problem.

Terry mentioned that there is a bill that was in Resources and would go to Finance that would assign a full-time attorney to Fish and Game. Tillion noted that Highways has their own lawyer. Chance said they are listed in the Department of Law. They have been designating certain assistant AG's to be legal counsel for the department. Tillion said Highways attorney wasn't here in Juneau.

Chance said you would still have to budget for them through the Department of Law. Commissioner Brooks said the Department of F&G has an attorney assigned to them now and he is in Anchorage. He is of very little value to the Commissioner or the Board. He does handle F&G cases in court--to that extent he is serving in our department. His winning of cases is rather dismal. The AG's office has the responsibility for representing the department in litigation. We don't want that responsibility residing in an attorney working with the department and the board. We need legal advice and assistance in interpreting federal laws, telling us what we can do and what we can't do on a daily basis in order to avoid getting into litigation.

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Mr. Brooks said that perhaps the greatest criticism of the present manner of promulgating regulations is that you don't get enough grass-roots input. The advisory committees don't do enough--board members don't get around enough to satisfy the people and maybe that is why you are requesting this change. He said he failed to see how be reducing a 12-man board to a 5-man board we could expect to increase the input to the public. In his experience in watching the board members, the commercial fishermen members on the board have been able to make good decisions on game. It isn't all that specialized. The men just have to have the right attitude. He said he felt this legislation was unnecessary. He said he agreed with Mr. Nelson, that there are shortcomings.

Mr. Wilson said that he disagreed with the commissioner on representation. Representation will decrease for commercial fishing, but the Interior primarily has not been given equal representation or even close to it. The Commissioner stated some areas of representation: Dillingham, Chivak, Kobuk, Kenai Peninsula. (Banfield left at 4:55)

Chance said we obviously had a difference of opinion and there was also a language problem on Page 12, line 28. Tillion suggested changing it like present statutes. She asked about the advantages and disadvantages of a 7-man board. Terry said that was like asking why the board we have now went from 10 to 12. Chance said this would offer less representation--two boards would have 14 members. Terry said we didn't have any problem with representation with our present board. He felt this was the wrong philosophy. She said the type of fishery would be eliminated by preventing vested interest. Tillion said that most on the board right now would comply. Terry said he had a few qualms about saying that a commercial fisherman couldn't be on the board.

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Specking said that he agreed with Chance on the 7-man board. Chance asked what Resources thought about that. They came out with a CS. Terry said this really wasn't a decision made by the committee that is why they passed this out with the original bill. Specking said we had a good vehicle here and there have been some things that are needed to clean it up. You will also need to decide on a 5-man or 7-man board. Specking felt that in order to meet the needs of the people he represents they would need a 7-man board.

Commissioner Brooks said he didn't think there was a very extreme change in the attitude of the Alaskans in the last two years. You focused attention on distributing the authority to the advisory boards in order to give the authority back to the people. From that extreme then you say you are going to dispense with the 12-member board down to a 5-member board.

The present board has increased a little bit and has served Alaska for the past 15 years. Not everyone has been happy. There have been people with ideas of changing this one way or the other. He couldn't see that what we are doing addresses any identifiable problem. He said that the board needs more money so the board members can visit the advisory committees and talk to them. They also need to attend meetings outside with other commissioners. There are also international association meetings that would be beneficial. He said they were in session six weeks of the year. He told about the meetings from the fall of 1972 to the fall of 1973. Being selective about the portion of the regulations we are opening up is vastly speeding up the processes in dealing with the regs.

Meeting adjourned at 5:10 p.m.

Unfair trade practices

Malone said the Unfair Trade Practices Act was in HB 543. Orsini said he wanted to hear from our consumer protection person on this. Chance said she had been called last week urging the passage of this act and specifically this portion. Tillion said this was drafted because they weren't sure the the whole act would pass. Stan Howitt has also asked for this. Chance moved to introduce this bill with a committee report having a "Do Pass" recommendation. This was agreed upon. McVeigh asked to have the secretary get in touch with the AG and get a little note from his office explaining this. Ask how this got on the books in the first place. This will create a lot of questions on the Floor.

HB543

release on parole

SSHB 511 - Randy is working on a CS for this bill. (Release on parole) Malone asked McVeigh to explain differences between probation and parole. He said there was some confusion on this because if a judge sentences a person this is probation. How the 180-day rule comes in he didn't know. This is probably administrative. Everybody would be eligible once they were placed in confinement. If you took this 180 rule away you would have a proliferation of people wanting to appear before the parole board so they could get out. He said this was also the federal method if you sentence anybody under 180 days you would normally expect to serve the whole period. Randy said that Mr. Adams had also said that there were also work furloughs and work releases within this 180-day period. There were also other provisions but no probation. McVeigh said that as a matter of practice those who get over 180 days serve that much anyway. The parole board doesn't meet that often. There doesn't seem to be any injustice in this system. McVeigh suggested if we were to deal with that problem that we do it in another bill. Mr. Adams said they would deal with it administratively.

SSHB 511

McVeigh thought we should delete the provision that the prisoner be brought back before the sentencing judge. This would be a constitutional problem. The added language says that he may not be released on parole and the period of confinement to which he has been sentenced--1/3 must be served. The judges have been able to sentence a person for a period of time and suspend a portion of it. Chance said that now the judge can state in the sentence that the person may be eligible for parole in less than 1/3 of the time but not more than 1/3 of the sentence. McVeigh said that was current law. We are designating that they have to serve a minimum term before eligible for parole. In present law the term may be less than but not be more than. We are reversing this. We are saying at least 1/3 of the sentence must be served before eligible for parole. Orsini asked if this would have any effect.

McVeigh said the general public normally assumes that the

Chairman Tillion called the meeting to order at 3:05 p.m. in Room 104 of the Assembly Apartments. Present were Chance, Orsini, Tillion, McVeigh, Malone and Berry.

acupuncture

HB-760 - Practice of acupuncture. Malone moved and asked unanimous consent that this bill be signed out with a "Do Pass" recommendation. Dr. Fritz will carry this bill on the Floor. Randy noted that Mrs. Banfield had wanted to amend this bill to include dentists. Orsini moved to adopt Banfield's amendment. There was no objection. It was so ordered. (Banfield arrived 3:10) Chance said that there had been discussion of chiropractors using acupuncture, also. Malone amended his motion to include Banfield's amendment. All signed "Do Pass" as amended.

HB76

aggravated assault

The next item for discussion was aggravated assault (HB 792). Tillion said this was drafted leaving out the misdemeanor part at the bottom. Banfield wanted to know if acid would be considered a dangerous weapon. McVeigh thought it would. This was okayed by the committee.

HB792

unfair trade practices

Tillion said we had another bill drafted. This was on unfair trade practices. (HB 791) This related to release of information on unfair trade practices. At the present time the laws so state that the AG can release the fact that a criminal act has taken place but he can't say where. Chance said they can't give their evidence to anyone--they can only say there has been a crime. Orsini thought this could be abused by someone exaggerating a case and having it brought into court and it just wasn't a good case. Malone said this was where the AG knows a crime has been committed but he can't turn over the evidence to the DA. Tillion said you had to pay for hours of doing this investigation over again. McVeigh would like to hear from the AG on this. Malone said there was a bill pending from the governor that would take care of this. This is a separate attempt to deal with the worst problem.

HB791

Tillion said this was drafted when Gorsuch testified that if we didn't pass the whole bill on unfair trade practices this would allow them to at least do this part of it. Chance asked if he recommended. Tillion said he wanted the whole Unfair Trade Practices Act. McVeigh asked if there was any explanation as to why this is on the books this way. Tillion said he thought it had something to do with confidentiality of information--hoping to work it like IRS. McVeigh said normally laws like this exist where as a result of one thing you get information you can't automatically get this information for another use.

Release on parole

judge in sentencing these people is also the agent that releases them when they haven't even served one day. Then you have the parole board not even receiving any information from the judge so they let him go. In presentencing reports the judge will know and the prisoner and the parole board will know that once an individual is to be confined that he will have to serve 1/3 of the sentence. This may influence the judge in his sentencing. This is significant when you consider homocides. They get 15-20 years or maybe life. You are saying they might get as much as 15 years before they are eligible for parole. Federal life sentences are 45 years. McVeigh felt this 45-year provision should be put in the bill as part of the definitions. Randy will add this. Banfield moved and asked unanimous consent to sign CSHB 511 out. There was no objection. All present signed "Do Pass".

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SSHB 511

platting powers

HB 445 - Platting powers of municipalities. Mr. Gary Thurlo Thurlowe was here to testify on this bill. Tillion noted that lands for industrial use has been deleted.

HB445

Mr. Thurlowe said the Alaska Municipal League endorsed this as did the borough attorney for Anchorage Borough. He said he was speaking as an individual. This bill is almost word for word from the California statute. A copy of the Park Dedication Act was given to all members of the committee. A copy will be filed. He gave his own personal of working in this area and in this field. He was in favor of this legislation. He told how California developed their law.

In this bill the subdivider has to give up the rights to a portion of his land but this does not include industrial. It was felt that the subdivider created the demand for this space by generating the need for children to play--industry wouldn't do this. The subdivider generates the need so he should bear the burden. For one-acre lots there would be no requirement for park space but for townhouses or condominiums there was. He said in most of the subdivisions that the architects planned for open space--it is bad business not to. No one would want to live in a subdivision of 50-100 homes if there were no open spaces available. This law would allow local government to adopt their own park dedication requirements. In Anchorage and Fairbanks where they have large subdivisions they should adopt such ordinances. In the smaller areas it might not be necessary. This way you can leave it up to local government. Orsini asked if the local governments were unable to implement such ordinances now without this legislation. Mr. Thurlowe said they might be able to but they might not want to take the risk.

tting powers

Gary felt that if you make commercial holders of commercial land make dedications of park land--- the relationship between industrial parks and children brought into the community is indirect. He said that in this state you might be able to make commercial and industrial developers make payments in liew of taxes. If you do that you are moving into an unknown area. McVeigh said he could understand about the residential areas but if you apply the same theory and bring in money instead of people--you have an industry than can afford more than some small developer who has to dedicate land and the cost could be passed on to a broader base. McVeigh said it was his feeling that when you talk about park dedication, green belts, or open space this becomes not only available to the immediate residents but to the public at large. Industry should share their fair burden because they create the climate for people to move into the community. That is why McVeigh would not want to exclude them.

Gary did not want to include industrial because this was written up to be a very narrow bill. He told about the lots that had been set aside in Islands Homes Subdivision in Fairbanks. The amount was three or four city size lots.

Tillion said there was objection to developing a swale with a creek--you could find you have a nuisance due to the hippy commune. Gary said that in California they favor public ownership. They create a homeowners' association to be responsible for this land. Gary said they hadn't had any problems with hippies there. Banfield told about one in Juneau out by the airport--cars drive up and unload their kids and drive off. This is private property--what will be able to do with it when it is public property. Gary said he didn't know of any way of limiting access to the dedicated land. If you say it is open space and cannot be used then you can limit access.

Malone said that he disagreed about not including the industrial developers. Industry has an impact on the need for recreational facilities in the area. You might but the requirement in HB 445 saying that they pay some fee in liew of dedication. He said it would also be beneficial to see that there was a buffer zone between industrial and residential areas--green belt or open space. He did feel that without this law they could do a lot of the things the bill contemplates. Tillion said there was legislation and it has gone to the courts where if you take in excess of what the individual can recoup by the subdividing then you will have the make up the difference.

HB44

Gary said he could only refer to his California experience. It cost about $100-$200 per dwelling unit. The developer often times has to post that much for sewer fees, bonds, etc. This is a very minor part of the cost in starting a subdivision.

Platting powers

Malone asked if under California operations they had in lieu of land payments. Gary said they did only where there is no suitable land within the subdivision.

Gary said nothing would happen in this state until the local governments passed ordinances. The people would have input into their decision. Chance said that what this law called for was for the local municipality--if they do pass an ordinance--to include definite standards for determining the proportion of the parks. One area wouldn't necessarily pass the same type thing as another area. Tillion said the only thing he saw that might be a problem was the fellow with a 30-40 parcel subdivision that was asked for in lieu payment that might be in excess of what he could pay at the time. It shouldn't be more than what he gets in on a lot sale. Tillion gave the example of water hook-ups that bankrupted an individual. We would want to avoid that.

McVeigh noted that in section 2 when you sent in a plat and had it filed, you only partially subdivided, you would want to make sure if there are some blanks that this is not considered open space. Will the undesignated blank spots be determined to be open space? He wanted this made plain. Gary said it would only include the areas that are certified. McVeigh would like to amend sec. 2 to make sure that the areas were designated as undeveloped blank areas. You show water, alleys, thoroughfares, utilities, etc., and he wants to show these undeveloped spaces, too. The parks would also show on the plat. He gave the example of Anchorage where there is a blank spot on the plat so the public wants to have this opened up to the public--there is a law suit on this. Nat Valley Homes are sueing ASHA.

McVeigh feels these spots should be marked "as owned" and not left bland on the plats. Gary said the most extreme way would be to make the requirement on the in lieu payment fees so that they are proportionate as to how the lots are sold. Tillion thought that was a good idea.

Banfield asked if there was anything in the bill that would insure that once the land is turned over to the municipality that they will develop and maintain the park. Malone said this was a valid point. He said he has advised subdividers who wanted to develop that if they don't do this it would lower the value of their property. He said that people set up light housekeeping on the property sometimes. It might be good to stick

in a portion and say that the municipality could not accept these lands unless than operate a parks service.

Platting Powers

Gary felt this could be put under (2) saying "adequate provision must be made for its maintenance and use". Tillion said this would be an improvement. HB445

McVeigh asked if the subdividers vested the land in the homeowners' association. McVeigh asked if we couldn't restrict the use to the homeowners adjacent to the open space. He wanted to make clear that we could avoid problems like Banfield mentioned. For instance, you have 10 homes in an area--the playground should be available for the people living in those 10 homes. Banfield said the person who has the subdivision has the responsibility toward those brought in by the housing and now you say you have to serve the entire community with these open spaces. They may instead make in lieu payments. Malone suggested you make the parks private instead of public. Randy said you would get into trouble with the housing authority and public parks. If you keep if private land without some other kind of provision that land is still going to be private land and subject to taxation. Tillion said the way he did that was to deed a wider strip of land for road purposes. Malone said this would be private ownership in common. He said he has helped subdividers set up under the housing authority and they don't like to do this. McVeigh wants this area limited for the use of the subdivision homeowners only. We need to make it clear that there will be some policing of that area. Kids aren't necessarily the problem. It is just the public at large. Since we have had a large number of campers and trailers the problem has grown out of all proportion in some areas.

Malone did not think the purpose of this bill was to close parks to kids. He felt the idea of providing some type of limited public use is different from what we are talking about. This provides a mechanism whereby some of the costs of acquisition can be offset by the local government taking care of this in the planning process. There is nothing to prevent setting up a corporation to have a private park. He said he objected to putting in a limitation on the dedication section. He thought this might be better handled in another section.

Tillion said we should work out something on percentage and something where you couldn't pass an ordinance unless you have the maintenance authority to take care of these parks. The borough can't make you dedicate it and then build an instant slum into your subdivision. Chance asked if Parks and Recreation couldn't designate the use of the park. They can say it cannot be used for camping, picnicking, etc. Gary said they

Platting powers

could also say that the area could not be entered. It would only be for viewing. Orsini said that would be hard to enforce. Malone agreed that enforcement and management are the hard part. It probably wouldn't be such a problem in the less developed areas. Randy said we also needed to show on the dedication all the unused areas. There was also discussion of a payment schedule. Malone said he would hate to see that written into the statute. The owner might dedicate land in lieu of fees. There should be written in something to give the land owner an option. He might be able to grant other land other than in the subdivision or in lieu of fees. Gary wanted to know if this land would be useable for park purposes. Malone said not necessarily. It could be more useful for the municipality and they could sell it and then procure other land for park purposes. Randy said that the borough does something like this now. They will trade land around among developers. Randy will draw up a CS for the committee. Malone requested that Lines 17-20 be written to include commercial and industrial subdivisions. The amount and location of land dedication should bear a reasonable relationship to the use of the land or the need for recreational use of the land for future inhabitants. Malone also thought that it was reasonable to put something in the bill about the management of parks.

Revolving loan fund for water/sewer

HB 363 - Revolving loan fund/water and sewer. Gary said that in the smaller communities, like Glennallen, they may have a sudden need for sewer extentions. They really don't have the resources to issue bonds. They really need a bill like this. Malone said that right now there is a problem with inpoundment of federal funds. The committee was considering Resources CS on this bill. Chance said the idea originated with people in the Anchorage area--those on planning and zoning. This was when Max Brewer's regs came out on the 40,000 square feet lot size. They suggested this approach. In deliberations they discovered the funds were placed in the wrong department. CRA said it should go in the other department. They would like to work with the other department on establishing procedures. The Resources CS has been endorsed by the engineering and planning department of the borough. It has also been endorsed by a group of statewide land platters. Planning Association of Alaska has adopted a resolution endorsing this bill. This allows for all the planning needed to be completed and not hold up the start of the job so the local government could borrow the money needed to extend water and sewer lines and to insure that health provisions are adequate--this could be assessed back to the individual lots or use the federal funds when they are available to pay the loan back. Only those houses or properties involved would be responsible to the local community. The local community remains responsible to the state.

Banfield moved CSHB 363 out of committee with a "Do Pass" recommendation. This was the Resource Committee CS. All present signed "Do Pass".

Subpoena powers of legislature

HB 500 - Relating to subpoena powers of the legislature. There was suggested amendment for page 1, line 17. After special add "when authorized to do so by the Senate or House or both". McVeigh said one of the reasons for this bill was to compel witnesses to appear during the interim of the legislature. Under the old law we had under limited conditions the ability to do this. On one or two occasions during the interim committee meetings it was unable to get some of the witnesses. That was because we weren't able to get the concurrence of the body. This bill gives the power to the committee. HB500

Chance thought we could do this by changing the joint rules. In there it says it is done with the concurrence of the body, so that if the body agrees in advance that this can be done by the committees--couldn't this be done through a rules change?

Malone noted that it said subpoena and not subpoenas. Randy though this could be handled by giving this authority to the committee at the time it is being formed. It could be made to the chairman. A committee formed during the interim wouldn't be able to do this though. Tillion said this in effect gives up the power of both the House and Senate to look over the action of the subpoenas. The other committee amendment would put it back in the House. Malone said he was in favor of the bill. Malone noted that this takes a majority vote of the membership of the committee. He felt that the subpoena power we have is so cumbersome that no one uses it. If you think the committees should have this power, then you need this bill. If you don't want them to have it, then leave it to the courts.

Berry said if you wanted to compel the attendance of the witnesses you would have to have a joint committee meeting between the council and the committee. McVeigh said it is more important for the people to know you have this power than it is to use it. This way you can get information from them. Banfield moved HB 500 out of committee with a "Do Pass" recommendation with SA amendments. All present signed "Do Pass".

Meeting adjourned at 5:05 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 14, 1974

Chairman Tillion called the meeting to order at 3:07 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Orsini, McVeigh, Malone, Banfield, and Berry.

extortion

HB794

The subject under discussion was the crime of extortion. (HB 794) Chance asked about (7) on page 1. Tillion said that Havelock had that put in. He also read the letter that accompanied the bill--prepared by Joel Bennett. Banfield questioned (3) which mentioned exposing a secret. Malone noted (5) referring to boycott. The chairman distributed material supporting this bill. McVeigh said this was one of the more prevalent crimes in a boom economy. They will try and sell protection to the businessman.

Malone wanted to go through the bill checking all the statutes. McVeigh asked for a copy of the penal code. Jamie Love provided a copy for his use.

Orsini asked if you couldn't be guilty of extortion without involving property. Malone agreed with this. Randy felt that political kidnapping should come under that. Malone said if you limited this to only include property--this is too narrow. What if you force someone to do something against his own will by means of a threat or something like that. You might have to pay money or perform some act--wouldn't this be extortion.

Tillion said this originated with Havelock and that Joel had worked it over. This is taken from the California code. Havelock recommended a law on this.

Malone felt that the way the bill was written the person would have to obtain the property first before any crime would have been committed. Simply making the threat is not a crime. What about revealing confidential information or a secret--that isn't robbery, but you could be threatened on that point.

McVeigh said this is only half of the extortion law. This is theft by extortion as opposed to pure extortion. Malone asked what pure extortion was. McVeigh said when you get money. Property could also be part of it.

Tillion said the fourth item was when you put heat on a public official to make him do what you want. They would either take or withhold action--for example, a member of the zoning department. Malone said he didn't want anything like that in the statutes. Randy said that the second part of (4) was vague. Banfield said that a

3/14

prosecuting attorney might make a charge or withhold a charge. Tillion said that the first part protects a politician and the second portion makes the politician liable. Tillion asked if there were any sections the committee wished to delete or did they wish to add more. He asked if the committee wanted to submit and work it over when it comes back to the committee. Tillion felt that it should be referred back to committee. If you want to remove anything though it should be done now before we submit it. Malone asked for an explanation of (5). Randy said it would cover some labor groups. McVeigh said this was a crackdown of an official of a union. Tillion asked McVeigh to explain (7). He said he didn't know what that was for. Orsini suggested that it was the catch all. Randy said he could see a situation where say you have a dispute between two property owners. Whether it is a tree infringing on the other person's land or whatever, if he threatens to cut the tree down as a result of some other argument--not because the tree is shedding leaves in yard, etc.--then it would be extortion. If there is additional reason beyond extortion then he wouldn't be covered. McVeigh said there could be a threat of economic harm--buying things at a cut rate. It was difficult to tell who would benefit or if they would benefit as a result of the action taken. It is difficult why the other person would make the threat when there is no advantage for the person himself. Randy said that 1-6 are examples of how this would be done and apparently 7 was a catch-all as Joe mentioned.

extortion

HB794

Banfield suggested that Randy consult with the AG's office and find out what they had in mind. Randy felt that we should add additional language to reflect any other harm other than property or services. McVeigh said in (a) it is questionable--it seems that another may do these illegal acts and he would be covered. If you do it yourself then you are not. Randy said there were two things here--one is being in the action by threatening to do something himself and by suggesting that another do it. McVeigh didn't think it said that. Orsini asked if we currently cover someone who makes a threat against another. McVeigh said that is simple assault. This is not a felony. Malone thought that sec. (b) could be rewritten to cover that. Tillion didn't think we needed to rewrite now. McVeigh asked to have Randy take it up with the AG. Malone moved and asked unanimous consent that the committee submit this bill on extortion as a Judiciary Committee bill and asks to have to referred back to the committee. There was no objection.

alien ownership of land

HB 335 - Alien ownership of land. Randy said that his opinion was --that the last word that the Supreme Court put out was that it was legal--he felt it will soon go the other way. At the present time you are not going against the Supreme Court decision. Tillion said that

HB335

alien ownership of land

he would like to see this bill put out. The court will probably rule against this in the future, but for now it will still hold. If there are enough states against it the Federal Government will institute this action.

McVeigh said that the supreme court can't enact anything that is against the Constitution of the United States. Randy said there are two decisions that the supreme court has taken; One is equal protection and the other is that it is an area preempted by federal law. Particularly is this true when this gets into the rights of aliens once they are admitted to the US. Through the power of treaty they can say what the alien can do. Tillion said this covered a legally entered alien. This bill doesn't take that right away. It takes it away King Fasel's rights to buy all the ranch land. Montana has already acted on a statute like this. The bill before us deals with nonresident aliens.

Chance asked if Randy had found a definition for non-resident alien. He said that Washington, Oregon, and California use the term "aliens not eligible for citizenship". They got into trouble with the Japanese. Chance noted that Orientals were not allowed to have citizenship during the war. They were denied citizenship. Tillion said when we did that in federal law we didn't cover the children. Chance wanted to have a good definition of resident alien and if we don't find one then one should be put in. Chance gave the example of "Ishy". He has lived here for a number of years and he doesn't make an attempt to become a US citizen and he doesn't want to go back to Japan to live. She doesn't think that we should prevent him from buying his own home. McVeigh said this is a federal question. No matter what we do it won't hold up unless it agrees with federal laws. He felt we were in a totally federal field.

Orsini asked what happens with the Arab that comes over here and becomes a citizen. Tillion said you couldn't stop them. Orsini asked if real estate included the buildings. Tillion said Yes because this is allowed under treaty. Randy suggested that we amend the bill on lines 16 and 17. Add "except as provided by federal law or treaty" just to make it clear. Then you could say we are only trying to cover that which we are allowed to cover. Orsini said that he was concerned whether or not there were buildings included or are we only talking only about lands.

Tillion said that we had previously talked about grandfather rights. This would be on any land owned as of the effective date of this bill. Only apply this to all lands obtained after this date.

Orsini asked if there were some lands that we couldn't prevent aliens from owning. Randy said the treaty with

alien ownership of land

Japan allows them to own land for purposes of trade and commerce and there is an exception to own land for natural resources. Malone noted that this was covered on page 2 of the memo. California laws prohibit owning land for agricultural purposes. They did this by statute.

Orsini asked which countries we had treaties that allowed aliens to own land. Randy said you would have to go through and check country by country. Orsini asked about the Arabs. Tillion said there was no treaty with them. Orsini asked why we should consider letting the English, Turks, etc., to own this land. Tillion read the Nebraska statute. It prohibits it and even includes widows and heirs of aliens. They may hold land for periods of ten years but not longer. If the lands haven't been sold in that time it escheats to the state. We aren't asking for that in this bill. Montana didn't take action and the Arabs have a large amount of land there. At this time the Japanese aren't interested in agricultural lands but the Arabs are.

Orsini said he wanted to get it straight on the buildings whether or not they would be included when you say real estate. This bill says real estate and he thinks this includes buildings.

Treaties supersede state laws so we would have to look at the country and what the treaty provides. For the Japanese they are granted complete rights to own real property and property for business purposes. If not specifically covered in the treaty then the state can have the say. Chance asked why Canada could pass a law that says you can't sell land to US citizens. Malone said that was according to the terms of the treaty. McVeigh didn't think things had to be reciprocal. Tillion didn't think the federal government would fight laws like this. Orsini said this bill is saying that you can't own any real estate whatsoever unless allowed specifically by federal treaty. He is not sure that he wants to go that far. Tillion noted there would be a grandfather clause. We also talked about increasing the lease time to 25 years. Orsini said this would be all right if you were just talking about land, but what about the buildings. Malone said it would be hard to separate them because it is all part of the real estate. Orsini said we could say they can't hold land. Tillion said he wouldn't have any objection to that.

Chance said the buildings become a part of the land and when the land is leased and the lease is up, you can renew your lease. If not, the land plus the buildings revert back to the state. Tillion thought this was reasonable along with the other suggested changes.

alien ownership of land

HB335

Randy noted that the definitions under federal law -- the term they use is "lawfully admitted" for permanent residence. He suggested you might want to use that term instead of nonresident alien. Malone felt that that would tend to defeat the purpose of the bill. Banfield asked what this would do to the Canadian girls who marry American boys. Orsini thought they would be citizens. Banfield said they maintain their Canadian citizenship most of the time. They register each year with the US government. (Beirne arrived 4:20)

Malone said since Orsini was concerned about buildings on the land that we could make that a part of the lease. Define it in the lease. If you want you can say they can take the improvements off the land at the end of the lease. Orsini wanted this bill written just to cover the land. Chance thinks they should be able to seel the buildings to someone else. If it became automatically attached to the land they wouldn't be able to do that. Orsini moves that this bill pertain only to the prohibition of ownership of land. There was no objection. Chance moved to change the lease time to 25 years. There was no objection, so ordered. Malone moved to include a grandfather clause in the bill. There was no objection, so ordered. Chance would like to include requirements that the state advertise quite freely in order to register these people. Randy will draft a CS and bring it back before the committee.

Meeting adjourned at 4:30 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, March 18, 1974

Vice-Chairman Banfield called the meeting to order at 3:00 p.m. in Room 104 of the Assembly Apartments. Present were Banfield, Chance, Orsini and Berry.

fire safety rules & regs.

Mr. Ronald A. Hendrie, State Fire Marshal, commented on HB 644 - Enforcement of state fire safety rules and regulations. All this bill is doing is changing existing statutes. When this law was originally written, there weren't any boroughs. The Anchorage borough attorney doesn't want to enforce this unless they are specifically included in this law. Mr. Hendrie was in favor of this legislation. Banfield noted that further consideration would be given to this measure--when a quorum was present. HB644

motor safety responsibility

HB 645 - Motor vehicle safety responsibility. Lieutenant McLaughlin, who is in charge of driver's licensing and related fields, appeared before the committee in favor of this legislation. This bill also changes existing law. It gives more latitude in the course of an accident. This covers the uninsured motorist. In 1967 when the original bill was placed into force the $200 accident was not so common. The value of accidents has pretty much reached an inflationary figure so that we have to handle 60% of all accidents in the state. This calls for $400. With a $400 minimum it will be easier on his office. They have a backlog of cases right now and this is an attempt to alleviate the situation. Banfield asked about the effective date. What about the backlog of cases when this bill is passed? Lieutenant McLaughlin said he hoped it would apply to the backlog cases, too. Chance asked if this related to people without liability insurance. The lieutenant said there is a section that says that you have to file an accident report if the damage is so much. HB645

He said they were interested in the uninsured motorist who puts the insured motorist in jeopardy. He said they made a computer run on the accident cost. It is very close to $300--about $316. That's why we felt $400 was not unreasonable. This is so that we don't have to handle every accident. The individuals would take care of their own cases. Chance asked about injuries. McLaughlin said it did not apply to injuries. Chance noted that on page 1, line 17 it said "injuries". It said anything under $400. McLaughlin said the parents would have to go to the small claims court to make settlement.

The question was asked what happens now when a driver has an accident and he doesn't have a valid type insurance policy. (McVeigh arrived 3:07) McLaughlin said if the

person hasn't been carrying insurance their license is revoked. This is done through a hearing officer. If a person has been involved in an accident and he is wrong, we will suspend his driving privilege until released by the other driver--placing himself under insurance for three years. Sometimes this can be done in three days and sometimes it is never done.

motor safety responsibility

HB645

The repeaters in motor vehicle accidents are pretty heavy. They are the problem drivers. This would get them off the road. He said they were six months behind--all because of inflation. Orsini would like to put in an additional amendment that would affect the reporting of accidents. If the combined damages are over $100 then you have to report. You can't do much more than scratch a fender for that amount now. He felt the same philosophy should be used on this and raise this figure, too. Chance asked what the value of have an accident report was if the damages totaled $100 and then the department wouldn't get involved until $200. McLaughlin said they used these reports for highway planning. Accident reporting shows the bad spots on the highways. This is a help to the highway engineers. Banfield asked him if he would approve of Orsini's amendment. McLaughlin said $200 would be a good figure and he would favor Orsini's amendment. This amendment will be prepared.

McVeigh asked Lieutenant McLaughlin about no-fault. We have several no-fault bills in free conference committee now. This requires mandatory insurance of some kind. One covers personal injuries and one would include property damages. Do you have any thought on the desirability of no-fault in relation to covering property damage? Would this help out in administering your office? McLaughlin said that no-fault--they do not relieve financial responsibility. There will still be a determination needed to find out who has or has not had the insurance. He felt that no-fault would be an asset to them. Primarily because it puts us all in the same game. McVeigh said the legislature is awaiting an actuarial study from a midwest firm about the rates. He said he felt the legislature would adopt one. One of these schemes will provide for property damage. There is another one that is strictly for personal injury. McVeigh felt this would alter McLaughlin's office considerably. McLaughlin said he didn't know if you would be able to make people have insurance.

state fire regulations

Banfield turned attention to HB 644 - State fire regulations, and Orsini moved this bill out with a "Do Pass" recommendation. There was no objection and the bill was signed out. Banfield, McVeigh, Orsini, Malone and Beirne signed "Do Pass"; Chance signed "No rec".

HB644

nurses licensure

HB 576 - Nurses licensure. Kitty Gair, testified in favor

HB576

nurses licensure

of this legislation. She was speaking for the legislative committee of the Alaska Nurses Association. Under present law the only professional reason for which a license could be denied is negligence. By adding, as this bill does, professional incompetency, you are trying to prevent injury to a patient. The Board has not had the authority to take away a license. Some nurses who have not practices for 25 years want to renew their licenses. They feel that a nurse should be required to have knowledge of current medical practices and have kept up to date. In one case they have had a reference from the employer who states the individual to be incompetent but the Board feels there is no way they can withhold the license. By adding this provision in the law the Board feels it will be better able to consider all aspects of the licensing.

Mrs. Val Lennon, executive officer for the Board of Nurses, testified in favor of this bill. She said the reason the board wants this bill is that present law doesn't allow the board to disallow licenses to persons who have not practices for five years. We have so many applications coming in saying that the nurses aren't competent, also. So we went to the AG's office for an opinion. She said they asked for the penalty secion. This would include the employees who are the biggest violators. Within the last two months approximately one dozen nurses who are unlicensed have been found out. It is questionable whether some of them have ever had a license. Our laws say that they shall be licensed. She said hospitals do this, too--hire some of these people. They grab anybody that says they are a nurse. That is the reason they would like to have this bill.

Chance asked if she would object to just having the fine and taking out "imprisonment"? Mrs. Lennon said this relates to the person that does this time and time again. McVeigh asked who is the employer of a nurse. He said if his wife got sick and he wanted a nurse. Say it was a broken ankle and he wouldn't ask about "pedigree" as long as he could get things done that were necessary. Mrs. Lennon said this would not apply to a case like that as long as she isn't saying she is a RN. It says in the bill "knowingly" employs another in violation. She said they were trying to get at the hospitals that knowingly do this. They hire people that aren't even nurses. The doctors know this, too. McVeigh asked if the hospital hired nurses. You can't put a hospital in jail. You can fine them, though. The only one you would be getting--the hospital administrator would be criminally liable.

Mrs. Lennon said the board has the responsibility to see that people in this state get good care and the only way they can do this is to be sure that the nurses are licensed. That way the nurses will have to meet the qualifications.

nurses licensure

McVeigh said he didn't object applying this against the hospitals and doctors but that he was reluctant to ask for imprisonment for an individual. He felt that this should be applied to the person who is supposed to be registered. Since this would effect the Department of Commerce--McVeigh wanted to know how it would effect their administration. Mrs. Lennon said this came from Missouri law. Banfield asked if the department was opposed to this. A representative from that department said they didn't know about it so they didn't have an opinion or stated position on this.

Mrs. Gair said that this also came up in terms of what was going to happen on the first aid camps on the pipeline. They wanted to make sure they had qualified people. She said that during these discussions one of the legislators felt there should be some control on the first aid help. These camps will be staffed with nurses or paramedics. The paramedics are not licensed nore are they necessarily qualified. That is the reason for the strict control on nurses. Mrs. Lennon said they had asked one of the health corporations not to hire unlicenses nurses. They continually ignore us. These people are teaching other aides. This is the Yukon Health Corporation. This is very disturbing to the Board.

Mr. Ray Roady, Department of Commerce, had information distributed to the communities. In the written testimony--the red-ringed portion--portions of present statutes, they specify that if the Board has reason to believe that the applicant doesn't have sufficient knowledge to carry on practice, they may deny the application of the nurse.

When you get over into 270 on page 11, the list for grounds of denial--incompetency was not listed. This has been listed in this bill. There is a paradox here so the department would like to be able to in some manner deny individuals a license after a hearing on the incompetency problem. Mr. Roady is in favor of the bill.

Banfield asked Mr. Roady if he felt that a nurse after not practicing for five years would be so far behind that they could not qualify for a renewal of their license. He said this was true and that they should be required to have some more education to bring them up to standard.

Chance asked if the previous committee had moved for the adoption of this amendment. Banfield noted that Dr. Beirne had brought it along with her today. Mrs. Gair said that when Commerce discussed this--this particular portion was not discussed. When we were talking about the problems of employers Mr. Wingrove suggested that the amendment be sent to Dr. Beirne. That's what we did. Chance noted that the amendment will have to be drafted properly.

Statutes take effect

HB 758 - Time that statutes take effect. There is an amendment that Clem gave him. One of the effective dates listed was to be 1975. Randy said the bill now has an immediate effective date. Since this would affect the date that other bills take effect--if that were to happen it will take place some time during this session. This will cause confusion on the rest of the bills going through this year. If you put in a effective date of January 1, 1975, all legislation next year will go by what this bill says but it will not effect anything passed this year. Banfield instructed Randy to prepare an amendment to cover this.

HB 75

lost gear by foreign fishing vessels

HJR 75 - Reporting of lost gear by foreign fishing vessels, was the next item for discussion. Chance asked if they left the fish nets in the water. This ruins the propellers of other fishing boats. Banfield didn't think that was what this referred to. One thing of note is that gear left out in the water for any reason continues to catch fish. The resolution was signed out. Banfield, McVeigh, Chance, Malone, Orsini and Beirne signed "Do Pass."

HJR 75

pre-sentence investigations

SB 337am - Pre-sentence investigations, amending Alaska Supreme Court Rule of Criminal Procedure 32(c)(1). Chance said what we needed to do was fund the presentence activities and not act on this. Banfield agreed. This bill was set aside.

SB 337 am

motor safety responsibility

The committee was ready to act on HB 645. McVeigh moved and asked unanimous consent that this bill be reported out as amended with a "Do Pass" recommendation. There was no objection and the bill was signed out. Banfield, McVeigh, Chance, Malone, Orsini and Beirne all signed the bill "Do Pass".

HB 645

statutes take effect

HB 758 - was to be signed out with the amendment. Randy explained to Malone that this covers vetoes for the first time. Malone asked how soon a veto is overridden does it become law. Randy said it becomes law that day. It used to be 90 days thereafter. The bill was signed out with Banfield, McVeigh, Chance and Malone signing "Do Pass"; Beirne signed "No rec".

HB758

nurses licensure

HB 576 - nurses licensure. Chance said this had been in the statutes previously. You almost have to go to the employer because there are so many types of care available today. She is in favor of this amendment as presented by the nurses association. This gives them a chance to crack down on the unregistered nurses. McVeigh said this makes it apply to the ones that "knowingly" hire such people. Chance said she did think that the fine would be enough of a penalty. Randy has rewritten the amendment. Instead of adding it at the place they suggested, he added it to (3) of the preceding section.

HB576

Chance said she would like to have consideration given to deleting the imprisonment from the general penalty section and leaving just the fine. Banfield said we should have a CS on this bill. Randy will prepare one.

amendments to comply w/ equal rights

HB 123 - Amending certain laws to comply with "equal rights amendment" to Alaska Constitution. Banfield said she had worked on this with Randy. She said they made a good bill out of it. Randy is still working on this and it will be brought back to the committee when finished.

HB 12

legislative convirmation

HB 766 - Legislative confirmation of appointments. Banfield said that right now the law in unclear. Malone thought this was to extend the deadline. McVeigh said that as far as he was concerned he felt that we should delete special sessions to avoid a constitutional problem. This is on line 11. Special sessions are only called for specific purposes and no other activity is to take place so it wouldn't apply any way. McVeigh moved to delete after "shall" "within 14 days of a special session or". There was no objection. Randy made another suggestion of finding a different word for deadline. Chance said this was already in existing statute. Malone said you could say "this date". Randy said they were talking about a vacancy. The question comes up about--prior to 30 days within the session and the governor doesn't act for 45 days. What do you do then? (Beirne arrived 4:20) Malone asked what happens when under present law the legislature passes a resolution extending the deadline. Say extend it to April 5, would the governor have to send over any appointments? Do we really need this law? Banfield said that according to Legislative Affairs this point is unclear and shaky. Chance said that John Elliot felt there was a great deal of haziness to this. Beirne had some suggested new wording to clarify intent. "after the new appointment is made he must present the appointment to the legislature." Banfield said that that made sense. It tells which five days. There was no objection to the amendment. It was felt this should be prepared as a CS.

HB 76

extending deadline for submission of exec. appt.

HCR 70 - Extending the deadline for submission of executive appointments. This extends the date to April 5. Chance said this will give him more time to submit additional names. The time is over for this year. It is 30 days after the beginning of the session. Beirne asked if we did this by resolution. McVeigh felt if the governor needed this we should give it to him. Malone moved HCR 70 out of committee with a "Do Pass" recommendation. There was no objection. Banfield, Malone, McVeigh, Chance, Orsini and Beirne all signed "Do Pass".

HCR 70

treatment of minors

Chance moved to bring up SB 32am - Examination and treatment of minors. She said she was addressing her comments to HCS for SB 32. They made it so the physician could talk to the minor about his or her problems.

2 am

treatment minors

SB 32 am

Malone said he had problems with the language on line 18 where it says about contacting parents "is unwilling to grant or withhold consent". Chance said this means if the parent is unwilling to withhold or grant permission then the doctor can proceed. McVeigh said he doesn't agree with that. Beirne said what it really means is if the parents are contacted and they don't want the child to be treated--it says the doctor has to counsel. McVeigh said that means if the parents fail to authorize treatment then the minor may give his own consent. Randy recommends that since there is a difference of opinion as to what that language means there also might be a difference of opinion with the doctors. This needs to be clarified. Chance said this is getting at the parent who is refusing to accept the responsibility one way or the other. Malone felt we should straighten out the language. It needs to be simplified. Make it so the minor may give this consent if the parent won't give consent. Banfield asked if he meant even if the parent said No. Malone said he thought that was what the bill was saying anyway. McVeigh reads it that way, too. It should be that the minor may give consent unless his parent or legal guardian says he can't. Banfield said this view was at variance with Mr. McVeigh. Malone said that he wanted this clarified. When the parent is unwilling to make the decision then the minor can give consent according to Chance. That is when you get to the case where the doctor phones up and the parent says they don't care one way or the other. Chance said if the parents would say No, then the doctor wouldn't be able to give the treatment. Malone said if this is what the committee wants the bill to say, then they should clarify the language. Malone suggested letting the minor give consent. Banfield asked if he meant no matter what the parents say.

McVeigh said that when a doctor has a patient--anyone needing treatment should be treated. He said one doctor asked how he could do a pelvic on a minor girl since she is not of the age to give consent. McVeigh felt he would be obligated to give treatment to anyone of any age for any illness they might have.

Malone felt there was a different set of problems. If the parent can't control the minor--let that minor give consent. If the parent has control over the child, the child won't give his consent anyway. Chance likes the language as written. Beirne moved HCS for SB 32 out with a "Do Pass" recommendation. McVeigh said he would sign "No rec". Banfield said she wished we could clear up what the bill says because it might just go on through this way. Then they would get into a big Floor discussion. This would

treatment of minors

be particularly true, since there are several schools of thought. Malone agreed that the language should be cleared up. Malone suggested that a minor may give consent for medical and dental services if the parent cannot be contacted or of contacted is unwilling to or withholds consent. Banfield said this should be a committee substitute from Judiciary. Malone said we should further clarify that a minor may not give consent if his parent withholds consent. Banfield asked who has to pay for the treatment. Beirne said that the parents would in no way be held responsible for these bills. Randy asked if this would be true if the parents refused or would not give his consent, the doctor would have to look to the child to pay for his own treatment. Chance said these would be children from broken families anyway. Where there is communication between parent and child they wouldn't come under this. Dr. Beirne had some suggested language. On Line 19 "cannot be contacted or if". After contact put "and". Line 20 "either to grant or withhold". (Orsini returned) You would have to substitute "to give". McVeigh said this was still very confusing. In the first two sentences you say that the minor can give consent. The physician doesn't have any idea about the valid interests of the parents or the child. Beirne felt we were more clearly defining this so doctors would have to call the parents. Malone suggested that we delete lines 17-24 on page 1; he so moves and asks unanimous consent. Beirne objected. McVeigh said this would make it a cleaner bill. Chance then suggested deleting lines 16 on after "consent" to line 20. McVeigh thought we should retain that. This is the portion on counseling. Chance said in section 1 they can give consent. Beirne said she felt this was a good bill. After line 18 add "however". Banfield asked if this was referring to a minor living apart from the family. In paragraph 2 you enlarge this to mean any minor, even someone living at home. Banfield said if they are being treated for VD the family is entitled to know this. Beirne said this says if the parents can't be contacted. This means they know about it, but they care less. Randy said there was a problem here--you can end up with one result if you require that the parents be contacted if they are living at home. You may induce them to move out of the home in order for them to receive treatment. Malone felt that the language either/or was confusing. He said the way he reads it the minor may give consent. The rest is almost superfluous. Malone withdrew his motion. Chance requested the committee to leave the concept that the parents are uneilling to take part in the decision. They won't get into the act, then the doctor could proceed. She said that is what she thought the language meant.

McVeigh said the bill mentions the parent being unwilling to grant permission. That is why he thinks we should say unwilling to make the decision. If the parent says No then the doctor can't treat the child.

treatment minors

Malone says if you put the new language in then the new language says the minor can give the consent and the doctor can still treat him. McVeigh said he didn't think the doctor--he doesn't have to get consent from the parents to treat a minor because he has to treat everyone no matter what their age. If the minor has a disease he should be treated by the doctor. McVeigh said the only think the doctors are afraid of is being charged with assault and battery. Minors can't buy cars, make contracts, etc., until thay of legal age. The parents would sue on the basis that the doctor took unfair advantage and liberty with the body so they filed suit even though the child was willing. This is the same as the statutory rape statute. The court would do the same with that. Assuming that the girl was really sick, I don't think they would hold the doctor liable. Instead you want to give the minor the right to give consent.

SB 32 am.

Dr. Beirne gave the example of the child of a Christian Scientist. The child had an earache. The doctor pierced the ear and drained it. McVeigh said doctors shouldn't operate in the capacity. They shouldn't inquire about your religion.

Berry said there was another side. A child who is in pain. He doesn't go along with his parent's belief and the doctor or a series of doctors are concerned about being sued. McVeigh said he felt the doctor could be sued for not giving assistance in such a case. This would be especially true if the child lost his hearing. Beirne said she felt the doctors needed this bill. Mc Veigh said this would be a civil action and the case would have to go before a jury. The jury will have to find the doctor guilty or not guilty. He didn't think they could get a conviction in such a case.

Chance said that the language that is so confusing is the part that brings in counseling. Beirne said this was the only way they could get this out of HESS committee. Chance moved out HCS for SB 32 instead of SB 32am with a "Do Pass" recommendation. The bill was signed out. Banfield, Malone, Beirne, and Chance signed "Do Pass"; McVeigh and Orsini signed "No rec".

Meeting adjourned at 5:03 p.m.

Vice-Chairman Banfield called the meeting to order at 3:08 p.m. in Room 104 of the Assembly Apartments. Present were Banfield, Orsini, McVeigh and Malone.

Dept. of transportation

HB 32

The first item for consideration was HB 328 - Creating a Department of Transportation. Mr. Robert Pavitt, Director of Planning and Research in the Governor's office was the first to testify on this bill. Mr. Pavitt repeated testimony given before the Commerce Committee. He was opposed to this proposal. He said this testimony was the Governor's views. He said it was unfortunate that people think reorganization will bring about solutions to our problems. Mr. Pavitt read his prepared testimony, a copy of which was submitted to the committee. He doesn't see the approach of a department of transportation which has not been successful in the other states as being a solution to our outstanding problems in the field. Further, he said he believed that this is retrogression or a backward step. Orsini asked if it was his function to coordinate activities between the department of highways and public works. He said Yes. Orsini asked if his office was doing the balancing function that the department of transportation would do. Mr. Pavitt said that was correct.

Banfield asked if it was Mr. Pavitt's office that does the planning for where roads and airports will be. He said No, but that the Department of Highways does this. They have a planning system and division. Public Works also does this for aviation and marine transportation. It is our role to coordinate these functions. We see that they are serving the needs of the people. Chance asked if this new department would envelop three existing agencies. Mr. Pavitt said this wouldn't necessarily be true. Under the system of government that we have they would still be accessible to the governor and his own advisory planning group which is my division. Orsini said Mr. Pavitt's office does more than work with transportation. Chance said she understood that. Pavitt said that this view is correct except that you would have the two functions--coordinating with local government--etc. That would still have to be done. There is still the coordination with the other nontransportation factors that get into the transportation planning and these would still have to be carried on. Transportation planning is linked to where people are. Malone said that it seems that the statements just made are for the bill rather than against it. There is planning going on in the Department of Highways and Public Works, marine highways, and waters and harbors, as well as your office. Does this result in a coordinated policy? Mr. Pavitt thought that it did. He gave an example. The national transportation study sets forth the needs. This

Dept. of Transportation

has resulted in the establishment of more people input into transportation planning, leading to a unified presentation to the federal/state land use planning commission with respect to the need for transportation coordinators in the state. This is for the need for reservation of these coordinators through lands that are being withdrawn for other federal purposes. The present system has the clout of the state of Alaska behind it rather than the weaker presentation of a single agency.

Malone said that whatever the strength of the argument it would seem to follow on their own merit. The fact is then that the coordination of transportation policy at the present time would take place through the governor's office. This would be an overall transportation policy. Mr. Pavitt said that was correct. Malone further commented that this would not take place on the lower level, say highways versus marine highways or differences between aviation and harbors. Malone asked Mr. Pavitt if he felt there might be a degree of competition that results from this. He said there might be. He said he didn't think that the competition would result in any lessening of the public interests in transportation. He felt that there was some competition within any organization. Mr. Pavitt said that establishment of a single department doesn't necessary end the competitive activity. He said you might say that there is competition between aviation and marine transportation in the Department of Public Works. He said there are problems not responded to in the bill. We haven't mentioned a division of railroad. Chance asked what we would have to add to the bill to respond to all of the needs. Mr. Pavitt said it would take a lot more work. He said, in his own opinion, that he thought the bill was structurally unsound. You have to have a reason for changing the structure of state government. The reason could only be that you feel that the existing structure is not working. If the existing structure is not working, he said he would submit that there is ample authority within the law and the departments for making it work better. This would be his approach rather than changing the structure.

Chance repeated her question. He said he couldn't answer. He just doesn't agree with the concept. It would take a study of all parts of the transportation picture to see what was missing. He said that he had not conducted such a study. Orsini said there had been some speculation in Anchorage of using rail transportation more extensively for commuters between Palmer and Anchorage and also in Anchorage within the borough. When you get an inter-borough transit system, who evaluates the alternatives? Mr. Pavitt said he initially submitted the plan on the shuttle service. This was a plan for rapid transit from the airport to down town. He said he had also discussed the Palmer proposal. This could be a bi-borough authority. This is done in air pollution and other instances. Two

boroughs can go together. Rights-of-way for rail service is owned by the federal government. Urban Mass Transit Authority, a federal agency, would be also involved. I don't see any reason why that subject could not be pursued within the present framework of state government.

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HB328

Orsini asked who would take the lead in this planning. He also mentioned the possibility of a bus system. In each case you would have the department of highways advocating the bus system or wider roads. Who decides if you will widen the highways or put in a shuttle service? Orsini asked further who the rail advocates would be. Mr. Pavitt said he was not sure that there is a conflict that is so often pointed out. He said he could not speak for Commissioner Campbell, but felt his objectives would be the same--This means we want the best urban transportation system that can be provided. You can't run buses without roads. The rail idea at best would be a supplementary thing.

Mr. Pavitt felt that the Anchorage borough would take care of the problems in their area. They have received the first rapid transit grant but they didn't follow up on their study. They have another grant application in for enlarging their bus system. They are the ones that made the decision. He said he nor Commissioner Campbell had any say in the matter.

Orsini noted that this grant is only for within the borough. This would not include Palmer. Mr. Pavitt said that the feds have to make the decision. That ended Mr. Pavitt's testimony.

The next person to testify against this legislation was Commissioner Bruce Campbell of the Department of Highways. He prefaced his remarks with comments respecting the theory of the bill as he sees it. He said this is an attempt to integrate planning functions of various transportation agencies in the state. There is concern that there is no integration of the planning function. He said he would like to say this does not really address itself to that. There is a great deal of planning that is done on all levels thoughout the state. He felt this was much more important than just having state planning. Your planning has to reach not only the state but has to reach out to the cities, boroughs, natives, etc. If you are going to have a good solid transportation system all facets need to be included in the planning process. For instance he said that many of the committee members here today are from Anchorage. He said he didn't think that they have stopped to think that highways doesn't have the say in Anchorage. The planning there is done by AMATS. The state has no vote. Planning in this case is controlled by the local people. He wanted the committee to keep that in mind. Vesting the planning on one person--this

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misses the target of where the basic planning occurs. This occurs on a day-to-day interchange at the local level. He said if this was the reason for the bill, it will not necessarily follow that it will be successful. Planning must begin at the local level. There is the feeling that there are competing modes of transportation planning. We don't have this in most areas of Alaska. One of the reasons, is that in most places there isn't any transportation. Mr. Campbell read some information from his testimony. He said these were the facts and figures that have developed from the particular programs. When you put in a bus system, you may generate a thousand trips on the bus but you don't use the car any less.

HB32

What you are talking about is an expanded system of transportation. This shouldn't be considered competition when facilities are expanded. Mr. Campbell said it was easy to sit here and say--are we making the right decisions. Should we have highways instead of ferries. He said that $9 million went into the marine transportation system from highway funds. He said they are continually building on this. He did say that these are the only monies that are interchangeable. If after making the AMATS they wanted the train to go between Palmer and Anchorage, there are no funds available now. You might get a grant. A lot depends on the economic ability to finance the alternatives and is an important part of the decision making process. He said he had met with others in departments of transportation in other states. They have meetings. As far as Mr. Campbell can determine, where they have taken over highways they have the same problems they had five years ago. Their abilities have not improved as a result of changing their structure.

There is also another thing to consider. This is the fact that a small percentage of your executive's time is spent on planning transportation. The major portion of his time is spent in operations and maintenance. When you roll everybody into transportation you are also going to give them the headaches of construction and maintenance. And, now you want to give this all to one man. He would have one big headache. You will have a less effective organization than you have now. He asked if the increased planning effort we get by combining will offset the poor administration in our $200 million construction awards and $50 million maintenance programs statewide. He concludes that they will suffer.

This bill addresses itself only to the planning and not to construction and maintenance problems that would result

Dept. of Transportation

Mr. Campbell made the observation that we were getting the agencies together to do the planning but that we need the cities and the boroughs to be included in this, too. You also need to include the Alaska Railroad and the airline carriers. Malone commented that there are 26 states that have departments of transportation. Mr. Campbell said this started when the federal government started theirs. This fad hit at about the same time. It has been about six years since the first one was established. There haven't been many added in the last couple of years.

Orsini asked what happens when the highway system doubles in size. It seems you would have double the problems. Banfield said that was why we had a commissioner to made the decisions. Chance asked what UMTG meant. Mr. Campbell said this was the Urban Mass Transit Grant. That concluded his testimony. He was not in favor of its passage.

Mr. Bob Dwyer, Acting Commissioner of Public Works, was the next to testify on HB 328. He said his department is opposed to this bill. He said they had testified before State Affairs Committee on this already. He said he came today to answer any questions committee members might have. He was asked if he handled anything more than small craft transportation, airports and marine transportation. He said there were a few things.

Mr. Bowman was present and would like to give his testimony before the committee. He is in favor of the bill. He said it was plain from previous testimony that the administration was opposed to this bill. Banfield asked if they weren't formerly in favor of it. Bowman said the governor at one time did state he was in favor of such a department, but he wasn't sure about it.

Mr. Bowman said it seems to him that there are 22 states that have departments of transportation. These statistics are from a report published on the different departments for 1970. Since the federal department of transportation was established about six years ago it is obvious why these were formed. Bowman feels that we need to look at new modes of transportation. One of the problems in the field of transportation is that we already have have highways so we continue on in this field. There are other reasons for change.

One of these is efficiency, saving money, coordination mass efforts by all of the departments. He said he questioned whether this one person would have any more decisions to make than is true of any head of any department. You still have within the department directors who would handle your day-to-day problems.

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Mr. Bowman said that planning for future needs--transportation routes from "a" to "b" or whether you should have a ferry in lieu instead of a highway are not being done now in the office of the governor. Mr. Pavitt heads up this department but they don't do this. This type of planning is not being done. There is no follow up. The Governor's department of planning has a certain function and certainly can be an advisory function to the various departments. He said he didn't believe that any of them have to do anything about the reports from other agencies except read them and file them away. He said he would have been more convinced if there had been an honest effort made to dissect the bill and explain why these things wouldn't work rather than just a blanket statement against it.

This is a new modern way of coping--getting money from the federal transportation funds. During the next 20 years they will spend almost $2 billion of federal monies in Alaska. Certainly we should have some way of utilizing that to the best interest of the people. We have so many communities that don't have anything other than air travel And this is only, weather permitting and pilot willing. Maybe roads aren't the best way to go. This is the way the lower 48 developed. Bowman said he hadn't heard any criticism of the bill that tells him that we shouldn't go this route. Orsini asked if the problem Bowman was trying to overcome was lack of coordination. Bowman said Yes. He wanted to see overall integrated planning for construction and the whole thing. Banfield asked Mr. Bowman if in some areas he saw an economy in purchasing equipment, personnel, etc. He said Yes. Every department now has its own planning staff. Banfield asked if this would include maintenance, ticketing, and every thing. He said Yes. He said the buck would have to stop at the high desk. He said in his dealings with the various departments that had been one of the problems. If you have a problem with highways you go to highways--they may not have anything to do with a road going out to a dock. Bowman asked if anybody knew that all the barges are tied up from the Mississippi west for the next year or two in anticipation of the pipeline. Do you realize what effect this could have on the regular consumer in Alaska? We need building materials, food, etc. He said he didn't know if anyone was addressing themselves to that problem. He said that maybe Mr. Dwyer could address that problem but this should be an integrated facet.

Malone turned to page 4 of the bill. It mentioned "grants to the department" on line 8. Is that the normal way to handle grant receipts right now in state government? Mr. Bowman said he thought that each agency had their own granting privilege. As an example, Highway or boroughs, etc. One of the problems is that it is much simpler for

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a department of transportation dealing with the federal department of transportation rather than highways. Malone said this is on approval of the grant, what about the expenditure of a grant. Bowman said most of this money comes from matching monies. The matching monies would have to come out of the state monies. Chance said that the budget and audit committee have to approve of these. Banfield said they do this in the interim. Chance said we might have to look at that part. Banfield felt this could be an amendment. This would be after the budget is closed. Chance said this is not how they handle it in the regular budget but this is routine for interim. Malone said that anything included in the budget is approved. Malone moves that the committee report out HB 328 with a "Do Pass" recommendation. Orsini objected because he thought the committee should look at the specifics in the bill.

Chance asked about page 4, line 7. She suggested that we put language in there saying "when authorized by the legislature or by a budget approved by the governor." Banfield said that if it is approved it is a part of the budget which has been approvied by the legislature. Banfield didn't think this was necessary. Chance thought it would be better than to have it limited. Orsini said Banfield was right. It should go after the word "authorized". Mr. Bowman agreed to this amendment. All committee members were in favor of Chance's amendment. Banfield said we would have to change the effective date and one other date on page 5.

Orsini asked why we singled out airports on page 2, line 6. Bowman said that was one of the problems they have been having. He said there was a move to move the airport over across the inlet and there are those who felt in the longrun we should be thinking along those lines for the future. Orsini asked if he felt that a general overall bill should get into that level of detail. It appears that you are talking about general modes of transportation but in that particular one you single out the airports. Bowman said there are quite a few in Alaska--airports where conditions change around them, then you have a big move to relocate the airport. This requires long-range planning in any situation where the airports meet this.

Malone said that page 3 calls for a study before September 1 of each year. It talks about all types of transportation within the state. You could take airports out or leave them in and they would be included in this report. Orsini said that no other section did this. Bowman said his explanation would be that airports are very vital to the state and we have over 400 of them. Mr. Dwyer said they maintained 480. Bowman said he felt airports are so important that they need to be singled out. Banfield felt that it would weaken the bill if we delete that. Air transportation is an important part of our problem

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in the state. Orsini this indicates that they are more important than anything else. Malone said it seem this way, but it doesn't seem to hurt the bill either. Dwyer said at the other committee meeting both highways and public works had offered the observation for what it was worth that section 44.22.030 on page 2--is somewhat within the executive branch of the government usually. If that was your intent, we don't mean to influence you.

HB 32

There is another thing. You don't allow flexibility in organization the new department because the divisions are spelled out. This hasn't been done in other bills. Malone said he could see his point. Where you prescribe the situation in the department--you might need a division of rail transportation or you might want to combine or create new divisions in addition to those that are listed. Written this way, it might be too restrictive, and actually be working against the purpose of the bill. Malone thought that we might be able to change this.

Orsini came back to airports and wondered why there is a separate division of airports from marine transportation. Mr. Dwyer said because they are two dissimilar operations. Marine transportation is for operating the ferries. The Division of Airports is for construction department. This department builds airports and construct docks, etc. Randy said that in present statutes it has been done both ways. Some list the divisions and others don't. There is precedent for going either way. The Governor could change the organization or reorganization by executive order. This bill directs the way it is organized but is not tying it down for years to come. It works either way. Banfield asked if the committee was ready to put the bill out. Orsini had some more questions.

On page 4, section 70(a). He wondered why you wouldn't consult Economic Development. Banfield wanted to know why they should do this. He said if you were talking about recreation you are talking about social considerations. This also takes into consideration economic impact. Malone said this language doesn't limit the department from consulting with any other department. He gave the example of Highways having to consult with Fish and Game on some things. Natural Resources would probably at times have to consult with Health, Education, and Social Services. They could also consult on social or economic development. Orsini agreed.

Malone moved to make an amendment on page 4, lines 13 and 14. Delete all of line 13 and delete on line 14 add Natural Resources and Environmental Conservation. There was no objection to this amendment. Mr. Bowman said if he remember correctly that under the Environmental Conservation Act you cannot do certain things like building or when creating recreational facilities you have to pass the qualifications within this Act.

He didn't know whether it would be good to separate it out or delete it. Malone suggested that the appropriate officials would diver the contingencies. We are point out some of the things we want the department to pay some attention to. Bowman commented that in trying to reach that end, instead you could delete it by saying "it is not limited to". He said we should research the Environmental Conservation Act. Orsini said if that is the case, and you have to do it regardless of whether it is in the bill or not, he doesn't see any reason for specifying it in the bill. Malone said when you say the department "shall" consult--and then list the agencies--it seems to him that this is as strong as specifying. To avoid environmental hazards it would be necessary to consult the Fish and Game, Environmental Conservation, and any other appropriate officials. You may even have to consult with Federal Fish and Wildlife Service. Malone suggested that if the head of the department of transportation was following the law he will be doing this. Malone's amendment was adopted.

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HB328

Banfield said this will be completed tomorrow. An amendment will be prepared for HB 328.

Interest charged in the state

CSHB 497 - Interest charged in the state. The original HB 497 has a straight 12% true interest rate.

CSHB 497

Mr. Dick Hall appeared before the committee on the measure. He said the original bill was introduced by the monetary committee repealed the existing interest statute and stated that 12% would be the legal maximum interest rate in the state. The CS prepared by the Commerce Committee agreed that above $100,000 the loans should be exempt from this limitation. Anything below that would be identical to existing law. That is basically what this does. It also eliminates the 1975 expiration date. One other thing: It also covers prepayment penalties.

McVeigh asked what this bill did to the 1-4 family dwelling unit. Mr. Hall said this remains at the 4 percentage points above the federal reserve rate. Chance requested to see present law. Randy read this to the committee.

Mr. Hall said they were losing commitments because of the 1975 expiration date. He said they didn't have any objection to the existing bill. Chance suggested having a bill that just deletes all except (e). Mr. Hall said that they were also having problems with the larger loans. They are 11% which is common now.

McVeigh asked if the 1-4 family dwelling went over $100,000 would the rate go higher. Mr. Hall said it would. McVeigh felt we were better off with the 4 percentage points above the federal reserve rate. He asked what the floor was now. Mr. Hall said it was 11-1/2%. McVeigh noted that that was 7-1/2% over the federal reserve

rate. Mr. Hall said he was in favor of the CS as put out by the Commerce Committee.

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Chance asked if under existing law you have 4 percentage points, this would be 4 percentage points for everything. Mr. Hall said this bill would hold it at that for everything less than $100,000. Chance said she objected to that. This means there won't be any loans made less than $100,000. Banfield said she asked Mr. Hall about this before the meeting started. Mr. Hall asked if what they were saying meant that the bank couldn't loan at a rate sufficient to give the yield they are looking for that there will be no money flow into the smaller areas. If you are trying to regulate the rate you will drive the borrower outside. Chance said that was what she felt would happen. There would be no money available for loans under $100,000.

CSHB49

Malone said there was an interesting point brought out in the interest rate hearings last year. He wanted to ask Mr. Hall what are the practical problems involved with tying a floating interest rate to not the federal reserve rate but to the interest rate paid on savings in Alaska. Mr. Hall said they are regulated on the amount they can pay on savings and not what the true cost of money is. If you try to regulate what the bank is going to charge to what we are paying out on savings then you have a possibility of eliminating us from the loan area. If you are paying 5% on savings and you say we are only going to be able to charge 7% then we will not be able to make any loans. Malone said that all the banks would be set--pay so much interest on the money deposited in them. Mr. Hall said there is a limit on that. Malone said this was true but that it bears no relation to the interest rate charged. Mr. Hall said they were regulated by law and have to pay 2 points above what we get the money for. Malone asked what the federal policy on the rate paid on savings or deposits in the bank entailed. What is its purpose and how does it work? Mr. Hall commented on the rates. He said you have your thrift institutions paying maybe 7%. This is in either long-term or housing loans. Over the years this gap has narrowed. There is very little difference between savings and loan the mutual savings and the banks. There is a competitive factor. You would go broke. Malone asked if this would stabilize and protect banking. Malone asked if the deposits weren't the source of the monies lent. Mr. Hall said Yes. The banks cannot eliminate less than $100,000 loans because the money comes from the depositors. You have to accommodate the credit needs in that area. You need the depositors to continue to have growth.

McVeigh asked Mr. Hall what his loan rates were. He said they were 9-1/2% and this is common. Good risk loans are less. McVeigh asked if he was able to charge 11-1/2%. He said that he was. He added that they didn't do this now, though.

Mr. Hall said that some banks would go to the higher rate. They have a high exclusive area or a high earning period over this time. To his knowledge his banks did not go to a higher rate. McVeigh asked him if he had gone over the maximum on the big loans. Mr. Hall said No. He said his bank can't hold that big of a loan. He said the best rate they could get in the Seattle area was 11%. They give us the money to loan.

nterest charged in the state

CS HB49

Orsini asked about the expiration date. Mr. Hall said this was April 14, 1975. Orsini mentioned the material on page 1, (g) where it says prepayment. Mr. Hall said they are required to make federally backed loans. They are going to put their money in for a particular period of time and they want the prepayment penalty to carry them over this period. Last year they eliminated this --from paying the penalty.

Orsini asked what portion of loans he made were federally insured. Mr. Hall said they don't hold any of those loans. They processed $30,000,000 worth last year. Orsini asked what portion of that was home loans. He say all of it was.

Malone asked who sets the interest rates--what federal agency. Mr. Hall said this was the Federal Reserve Board. Malone also wanted to know how they determined what interest banks should pay--what are the factors to be used. Mr. Hall said he didn't know. Stability of the economy would be one consideration. This board is the monetary arm of the government. He felt it was mostly based on small growth and a historical pattern. If a bank were extremely profitable--then they could increase the savings rate by 1%. Malone asked what that rate was now. He said it was 5% on savings now.

Banfield asked if certificates were regulated--those under $100,000. Mr. Hall said they had paid up to 9-1/2%. Malone asked if there was a separate interest charged on loans in Alaska depending upon whether they are big or small. Mr. Hall said in his bank they used a guideline listing a basic rate. He said they modified that on the compensating balances--this is in their branch. They have not made a 10% loan in the last six months. It ranges from 7-1/2 to 10%. Randy wanted to know what the difference would be on political situations. He said Mr. Hall talked about connections with the federal reserve. What different considerations enter into their setting of the real discount rate. Mr. Hall said this was strictly a motivator of the economy. Berry said he also mentioned political considerations.

Chance asked if we repealed paragraph (e) and deleted the language "before April 14, 1975" then would we end up with the previous rate in existing law until some future change by the legislature. Are these provisions adequate--4-1/2 percentage points for contractors on

1-4 family dwellings. She asked Mr. Hall if that gave him adequate interest. Mr. Hall said that at today's rates it would in most cases. He said they were running into some problem with the larger loans. Chance asked again if 4-1/2 percentage points above would not be enough. He said it wasn't.

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Malone asked about the general philosophy--instead of the federal reserve discount rate why not tie it to the amount that the banks are allowed to pay on their savings accounts or on their deposits. Mr. Hall said that this legislation will not tell the bank what they can pay. The rates are determined by taking the earnings from assets or on loans. He said what we were going to do is stifle the economy and the profits of the bank. The regulation of the interest rate doesn't hurt the bank on a short term basis, but it does hurt the borrower. The banks will have to be able to make loans in order to serve their customers. We have to have a range in the rates in order to do this. There are competitive rates in Alaska. Malone asked if he meant that he couldn't agree with regulating the interest rates charged. Mr. Hall said that was correct.

CSHB497

McVeigh said that it seemed to him highly unlikely that under present law allowing 4 to 4-1/2 percentage points above the federal reserve discount rate would not cause any hardhips. Mr. Hall said this was only to a bank and it is a one-day loan. McVeigh asked if it wasn't part of their policy to fluctuate their rates--this is to keep in step with the cost of money. Mr. Hall said this either makes money available or it dries it up. Most banks don't use this rate to borrow. They use federal funds with banks loaning to banks. If you are in the federal window they will tell you to get out and then you have the bank examiners all the time. McVeigh said he thought he understood Mr. Hall's position. If you limit the banks their may come a time when they won't be able to get money for the customers. The most you can charge is 11-12/%. There, you will put it where you can get 12%. That isn't in Alaska. How realistic is that? Has it ever happened? Mr. Hall said Yes this did happen for a short period of time.

Chance moved that we have a CS that repeals (e) and delete the language "and before April 15, 1975" from 45.45.010(b)(1) and (b)(2) plus the effective date clause. Then we would be deleting reference to a repealer. We would have in effect, then, the rate mechanism that we have now. Malone said he didn't have any objection to that. He said he didn't object to taking rapid action on the bill, but he wanted to explore some other things on this.

interest charged in the state

Chance said the reason she was suggesting her amendment was that we are going to have a problem with that date coming up soon. She said she also had a problem with trying to deal with a great deal of speed and not enough deliberation on the CSHB from Commerce. Orsini said he never got his information. Orsini said that last year the banks said they would get some information ready for us at the start of this year. We don't have that yet. Mr. Hall said the monetary committee prepared a report.

CSHB4

Nick Veroske, from Commerce Committee, said that all legislators had received a copy of this report. The comments are there in the report. There are pro and con comments concerning the present usury law. There is also information submitted to the Commerce Committee by the banks in a confidential survey. When the maximum allowable rate was 10% at that time--July--A study of rates of October after the maximum rate had gone to 11-12/% showed that in a few cases--in three cases the banks went heavy on charging loans at the maximum rate. All others, the banks kept the rate below the maximum rate.

Chance restated her previous motion. Mr. Hall suggested instead of modifying this bill that there is another bill that could do that. Banfield said the other bill didn't quite cover the same thing. She asked how many were in favor of Chance's motion. Malone said he was in favor of having it come before the committee. Banfield said that Randy would prepare a committee substitute for the Judiciary Committee.

legislative confirmation of appts.

HB 766- Legislative confirmation of appointments. Banfield said we had deleted reference to special sessions. Additional language was added on line 16 "after the appointment is made". Orsini said he had no objection to the CS. Malone moved and asked unanimous consent that we report out CSHB 766 and sign it with a "Do Pass" recommendation. There was no objection and the bill was signed out. Banfield, McVeigh, Chance, Beirne, Orsini and Malone all signed "Do Pass".

HB766

licensure of nurses

HB 576 - Licensure of nurses. Banfield said that a CS had been prepared for this bill. After checking it over, McVeigh moved and asked unanimous consent that the CS be reported out with a "Do Pass" recommendation. All present signed "Do Pass".

HB576

appropriations for law & order

Banfield presented a bill on appropriations for law and order that had been prepared. (HB 802) She said Tillion has suggested that instead of introducing a bill we should just write to the finance committee and tell them what we recommend they do. Chance said she would much prefer say this in a bill. That makes it a public recommendation from the committee as a whole.

HB802

Banfield asked if this was a motion for a Do Pass recommendation for a committee bill. Chance said it was. There was no objection and this bill was signed out. All members signed "Do Pass".

Congratulating Reggie Joule

Banfield said there was a resolution that was presented to the committee. It is congratulation Reggie Joule on his athletic accomplishments. Beirne moved and asked unanimous consent that we introduce this resolution and recommends a "Do Pass". There was no objection. The resolution was signed out "Do Pass" unanimously. (HCR 84)

HCR84

credit to gambler

There was another piece of legislation relating to gambling that was prepared for this committee. Malone said this came from the report the minority have been working on on the criminal justice investigation. Banfield said if we were going to have a law on gambling she didn't see anything wrong with it. (HB 801) McVeigh objected saying that you were making a felony out of permitting credit to a gambler. He said this would include the Elks Club. Banfield asked if Judiciary should introcude this bill. The committee was agreeable to introducing this bill.

HB801

equal rights legislation

HB-123 - Equal rights legislation. Banfield said Randy and worked with her on this and made it into a good bill.

She said they took out everything that pertained to the handling of liquor, B--girls and prostitution. This cleans up the language so there is no differentiation between men and women as far as the laws are concerned. Beirne moved and asked unanimous consent to report out the CS for HB 123 with a "Do Pass" recommendation. This bill was signed out. Banfield, McVeigh, Chance, Beirne, Orsini, and Malone signed "Do Pass".

HB 123 (CS)

Meeting adjourned at 5:25 p.m.

3/2

Chairman Tillion called the meeting to order at 3:08 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Banfield, Tillion, Chance and Orsini.

sound recordings

There were two witnesses who wanted to be heard on HB 680 - Protection of the rights of owners of sound recordings. They were both in favor of this legislation. Mr. George Wehmhoff from Anchorage and Mr. Blacksmith from Seattle answered questions of the committee. Mr. Wehmhoff said that those in the music industry need to protect the works of artists and musicians who produce the music. This is also to protect the states in obtaining revenue from legitimate wholesaling outfits or organizations. You also protect the public from buying inferior merchandise.

HB 6

He said that tapes are easily copied. They will tape them and hold them until a song becomes a hit and then they will flood the market with these tapes. There are no royalties paid and nothing goes toward sustaining the music industry. They are in effect stealing music and songs from the artists and selling them.

Mr. Wehmhoff said that 22 other states have passed legislation of this type. There is a federal law but it has been ineffective. There aren't enough FBI men to take care of the situation.

He told about one operator who got "busted". He was in California and had operations in 11 states. That is how extensive this can get. This affects many personally and cuts down on the sale of goods he may be selling. (Malone left at 3:10) Banfield asked if this was limited to tapes. George said it mainly was tapes because it is harder to duplicate records. It takes much more sophisticated equipment. Banfield said she a lot of this kind of equipment being advertised. George said this was all right.

Tillion said this is legal as long as you don't sell the tapes. George said it was all right just as long as they were not selling illegal tapes. The industry sells a lot of this type of equipment. This is for your own personal use and then there is no problem.

Tillion noted (1) on line 26. What about taping things for broadcast by educational radio and TV. George said that line 23 exempts them. He said that late night shows tape their programs in advance. We aren't trying to hamper their industry. In Anchorage the broadcasters went over this bill and said it was all right. Banfield said the tapes still couldn't be sold.

(McVeigh arrived 3:14) McVeigh asked where this was happening. George said he can show them types of tapes from Juneau. He had some sample tapes.

sound recordings

He said you could find this same box with several different addresses on the back. The legitimate tapes tell you where it is recorded. They also show copyrights, etc. He showed on of the copied tapes, which would cost $1.99 on the market and then showed the original legitimate tape. It would cost about $12.99 on the market. McVeigh asked how the scheme worked. A person would buy a bunch of cartridges or boxes of blank tapes and then this person would go out and buy one of the real good original tapes. The individual would then fill all the blank tapes from the original legitimate tape and sell it. George said they could run some of these tape machines taping several at a time. One of these people was taping 200 per day. It is an inferior product, too. McVeigh asked if the owners weren't under some kind of obligation to say where their tapes came from. What about state shipment of these tapes?

HB 68

George said there are federal laws that were passed in 1971. The people involved in federal are investigating and preparing for investigations but they are limited in numbers of people. We would like to know why they don't do more. There are a number of other states asking the same thing.

George said one of the reasons that this flourishes is that they can sell these at the corner drug store because the merchant wants to get some of the profit. They gamble that they call sell the goods before they get caught.

George said they had sent out many mailings to everyone in the retail trade explaining what these tapes are. We explain not only what this does to the customer when he finds out he has an inferior tape but also what it does to the music outlets themselves. Most music stores don't deal in these tapes.

Orsini asked how much a blank cartridge cost. George said it was between 1.98 to 3.29 depending on the brand. Tillion noted if they buy them in quantity they could even get them for less. McVeigh noted that this would not only effect the person that produces and sells to the drug store but also get the drug store that sells the tapes. He asked George how the drug store managers would know if they were legitimate tapes or not--are they boxes marked in some way? George asked to present a written document showing how you can spot bootleg tapes. McVeigh wanted to know if there was anything distinguishing about a legitimate tape. He thought maybe we could say that no merchant may sell or advertise

sound
cordings

for sale tapes or recording equipment that doesn't have a copyright mark on the box. If the copier's have paid for the copyright it would be marked on the cartridge.

Mr. Chuck Blacksmith said this was a good question. He said what they have found in the last several years if they have put the copyright mark on the tape itself. For the person who would just go in and buy one, they wouldn't know. No states have addresses themselves to this problem. Oregon and Washington have a statute just like this. Chuck said he had asked the FBI if this was covered by the copyright law and got no sound answer. That is why we are having to do this state by state. The only thing about it, each state has the right to do it different. It really gets right down to where the Justice Department has directed the FBI to search out and find the duplicators. They have found 75,000 blank tapes and sever hundred of thousands of dollars worth of tape. In the meantime the situation has run rampant. The confusion at this time seems to leave just enough latitute to go ahead and pursue the selling of tapes to the public. Generally a $1.98 tape by the bootlegger would be selling in the legitimate market for $5.98.

McVeigh said he was thinking in terms of enforcement. He thought it would be easy to go into a tape store or drug store and look at the tapes. Ask them to show the invoice or place of origin and trace it back from there. He said he thought this was a good bill.

Tillion said people will continue to copy because the penalty isn't too great. George said they didn't have the answer to that problem.

Chance asked if any of the bootleg tapes had a copyright mark on the tape. Chuck said they did. The industry has decided to put a "p" circled but the people usually put "c" circled. This has been an amendment in the industry in the last few years. George said he didn't think this was on the tapes prior to the enactment of the federal legislation. He said he could be wrong. This would identify the tapes.

Tillion noted the sord "knowingly" was in the bill. George said they felt everyone should be given a warning. Chuck said that was also the reason for publishing the brochure. This was distributed to all those doing business in the field. Orsini felt that the word should be changed in the text. He felt it should be before "sells". Tillion said we should wait until Randy comes. On line 18 it talks about a first offense and second offense but doesn't mention any subsequent offenses. George said that was a very good point.

sound recordings

Chance said that merchants were not going to knowingly keep repeating that.

Banfield asked if we wanted to include discs. Tillion noted that the Oregon statute had that. Chuck thought it might be a good idea to include it in this bill. This would cover the video tape situation. Chance noted that this bill didn't say anything about tapes it just mentions sound so that would include both or any other things that might be developed. She did think we should change "knowingly". Banfield repeated Orsini's amendment for Randy. He felt it wouldn't hurt to put it before "reproductions". The committee decided to prepare a CS. Banfield moved and asked unanimous consent that a CS be prepared and that we sign the committee report today with a "Do Pass" recommendation. There was no objection. The bill was signed out. The amendment was made on lines 12 and 18.

reckless & negligent driving

SB 193 - Reckless and negligent driving. Tillion said HB 154 - Revocation of motor vehicle operator's licenses was being held in Senate Judiciary. SB 193 doesn't cover what we put in that bill so he would like to use SB 193 as the vehicle for passing HB 154. Banfield suggested we plan on this when we get the bill.

toilet accomodations

HB 429 - Toilet accomodations in restaurants and taverns. The committee substitute expands the requirement for toilet facilities to include public functions. This would mean for fairs, dog races, etc., they would have to provide some facilities. These could be only the Rent-a-John just as long as they provide something. Chance said this covers every type of toilet facility just as long as one of the types is available. Bob Hartig drafted the CS.

McVeigh asked what the definition was for "tavern". He thought this would be a place where you sell beer and wine only. Randy checked the statutes for the definition there. McVeigh felt this should be defined the same way it is in the alcoholic beverage section. Chance said she thought this covered all types of places. McVeigh felt it may be all right. Chance recommended that the CS for HB 429 be adopted by the committee and moved and asked unanimous consent that it be reported out with a "Do Pass" recommendation. There was no objection.

animals transported on ferries

CSHB 428 - Health certificates and evidence of ownership for animals transported aboard vessels of state ferry system. Tillion said this is supported by the cattlemen. They are noting stolen stock being transported into Alaska. They also are aware of certain diseases among such animals. McVeigh said he was thinking about the person with a dog. He said you don't have to show certificates of ownership on planes for your dog or cat. Tillion said this just applied to the ferry.

transporting animals ferry

Chance said this involved a big program with horses. Especially this referred to the importing of horses. The market went down and pretty soon they started bringing them up by the truckload. Epidemics of disease followed. When the Commissioner of Resources was called he said he was surprised that the agency had no way of quarantining them.

CSHB 429

Randy said the arilines ask for a health certificate when you change planes but he didn't know about the ownership part. Tillion asked what that would be--a bill of sale--but who gets a bill of sale on a dog that somebody gives you.

Banfield said "or other documentation of the animal's ownership. McVeigh said this indicated for small household animals you would have to get papers of ownership. Randy felt we should be able to exclude small pets. Tillion said he objected to the section on ownership. He asked who had a certificate of ownership for dogs or cats. In reference to horses and cattle this was understandable, but for dogs and cats--it doesn't seem necessary. Chance noted there are a lot of places where you do not have to license your dog or cat. Banfield thought the officials should accept anything that showed proof of ownership. Randy said he didn't think there was much of a problem with cats and dogs but with large and valuable animals there would be papers usually.

Tillion said he had no quarrel with the health certificate. Banfield suggested that we leave the certificate of ownership out of the bill. Randy further suggested that we could exempt small pets. Tillion noted that a rabies tag doesn't show ownership. He said there is already a law against changing brands. Banfield moved to strike out "evidence of ownership". Randy will prepare a CS covering the health certificate problems.

carrying of firearms

Tillion said we had HB 633 - Carrying of firearms in places licensed to sell intoxicating liquor. Banfield wanted to leave that on the Table. Tillion said this was a sponsor substitute. No further discussion was held on this measure.

HB633

Meeting adjourned at 4:20 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 21, 1974

Chairman Tillion called the meeting to order at 3:15 p.m. in Room 104 of the Assembly Apartments. Present were Orsini, Tillion, Banfield, and Berry.

Life sentence — HB 796

Mr. Snowden was present for this meeting so the chairman asked him if he had any comments on HB 796 - Imposition of life sentence. He said he was against legislation changing rules of the court by statute. They would prefer this to be done by resolution. The Supreme Court has already stated its position on mandatory sentencing to the committee. In the case of a burglar it might be a first-timer. Banfield said she recognized how the court feels about this. This bill shows how the legislature feels about the departments changing things by regulation or not doing what the people say they want them to do.

Mr. Snowden said that the Chief Justice had announced today that there is a new criminal rules committee started with the ex-attorney general George Haynes as the head. There are a mixed number of people on this committee. They have been asked to look into plea bargaining, bail, and major questions that confront the court today, for instance, sentencing. (Malone arrived 3:20) He said that committee will be considering the above questions and will send in their recommendations. He wanted the committee to know that the courts are sensitive to the voice of the people as well as the voice of the legislature. Banfield said she was looking forward to the completed study on sentencing.

Election of Judges — HB 782

Mr. Snowden mentioned a bill, HB 782 Elections, on election of judges. If the bill isn't passed a number of elections could be invalidated.

Life sentence — HB 796

Tillion turned the discussion back to HB 796 - Life imprisonment and felt that we could probably get the 27 votes necessary to make this section mandatory. We got 21 votes on the death penalty. Orsini made an amendment to that on the floor--that was to include the multiple murder. The only ones included in this bill would be the homocidal maniac or gangland killer. Orsini didn't think this bill covered the multiple murderers but Tillion said they will get off for reasons of insanity which means they will get a life sentence.

There was some discussion about (c). Tillion thought it was good to have it in. It will take a separate set or regulations if we are going to keep them incarcerated forever.

Malone moved to report this bill out with a "Do Pass" recommendation. HB-796 was signed out.

HB 497

Interest rates charged in the state

HB 497 - Interest rates charged in the state. Nick Veroske, Representative Dick Randolph's assistant, testified in favor of CSHB 497. Nick said that last year he had worked with the monetary committee in Anchorage. He felt the committee should know that what they do to this bill will have a significant effect on Alaska's future. Orsini asked about the repealer. Nick said it was the expiration date.

Tillion said that we had a Commerce Committee substitute and a Judiciary Committee substitute. We will start with Commerce. Orsini wanted to know if we should accept which CS we were going to use before we continue our discussion. Tillion said we had talked this over pretty thoroughly and Randy had prepared our CS from those discussions. Banfield noted that Mrs. Chance's motion had deleted the expiration date and all reference to it. Tillion said we left everything else attached to the federal reserve rates. Orsini said there was a floating ceiling only on the 1-4 family dwellings. Is that right? Tillion said No. Berry said the CS makes existing law permanent. It doesn't have a dollar ceiling. Orsini asked about the difference between 1-4 family dwellings and commercial real estate. He wanted to know about equipment or things like that. Randy said it was all the same. Tillion said it covers everything. It only attaches it to the federal reserve rate. The person that has to get 14% money just isn't going to be able to get it in Alaska. Mr. Fink had said that if it had never changed those with good ratings would still be getting 8% money. Mr. Borer from Cordova told us that, too.

Tillion said that NBA can borrow money outside and loan it out at greater percentage and in this manner bring money into the state. Tillion said it is necessary to remove the date or the banks would let just their deposit funds out at 8%. This would leave only the preferred customers.

Malone said he was not satisfied with what the legislature did last year on this. He said he had some reservations about taking out the repealer. It is not the intent to cause problems for people who want to get loans. He said he would rather see this broken down on a dollar limit, if you are going to break it down. Tillion said the original bill set everything at 12% for under $100,000. Malone said he didn't like to talk about non-real estate, real estate and 1-4 family dwellings. The one that came out of Commerce set the limit at $100,000.

Tillion said that under this amount can't go over four percentage points above the federal reserve rate.

HB 497



Interest rates charged in the state

Tillion said that is the one that Commerce Committee wanted. Banfield noted that this bill next goes to Finance. Tillion said that the Judiciary CS doesn't give anything away except it removes the date. He said he didn't think that interest rates would go down.

Orsini said we might also have a higher inflation rate because of the pipeline. Tillion agreed that there is going to be a money crunch period. He said he would let the committee decide whether they wanted to put this bill out. Malone moved and asked unanimous consent to report out Judiciary CS for HB 497 with individual recommendations. There was no objection, so the bill was signed out. Tillion, Orsini and Banfield signed "No rec"; Malone signed "Do Pass".

HB 310

Trails and Footpaths

There was brief discussion of HB 310 - Designated use of trails, bridle paths and footpaths. A committee substitute had been prepared. There was a problem with deciding on incompatible uses. Orsini moved that we report out CSHB 310 with a Do Pass recommendation. Orsini, Tillion, and Malone signed "Do Pass"; Banfield signed "No rec".

HB 705



Bonded indebt. School cons.

The next subject for discussion was HB 705 - Home rule city bonded indebtedness incurred for school construction. Malone said he would like to help small communities in this way. Tillion said that Community and Regional Affairs had some amendments. Tillion thought this was better language. Malone moved to report HB 705 with CR&A amendments with a "Do Pass" recommendation. It was noted this would add first-class cities. Tillion said they didn't want to add boroughs. Banfield said we didn't have that many first-class cities. There was some question about first class boroughs have the same needs. Orsini had a question. He wanted to know if the first-class city can't pay the bond then the state does it for them. Tillion said it was more like the state gives the guarantee that the bond will be paid. They also have the power to levy for the payment of the debt. It is like co-signing a note. Malone felt they were referring to the things common to home rule cities. If there is immediate need to do something about issuing a bond for a school--they can pay it off but their charter says they can't sell the bonds. Malone moved to withdraw his previous motion and moved that the committee have a CS prepared incorporating the amendment of CR&A and that the Judiciary CS be reported out "Do Pass" There was no objection and Tillion, Banfield, and Malone signed "Do Pass"; Orsini signed "No rec".

HB 782



Election of Judges

HB 782 - Elections. The part the Supreme Court wanted was on page 3, (10) line 10. The court will have to end up in court and rule against themselves if this isn't

taken care of. Art Peterson did most of the drafting on this bill. Orsini said they went over it in State Affairs and it seemed to be a good bill. Malone moved to report out HB 782 with a "Do Pass" recommendation and asked unanimous consent. There was no objection. Orsini will carry this bill on the Floor. Tillion, Malone, Orsini and Banfield all signed "Do Pass".

HB 782

El[illegible]ion of Judges

HB 387 - Alaska Historic Preservation Act. Tillion said he had been asked to take this up. Orsini asked if we had a state archeologist. Tillion said that we did. Orsini noted that in section 9, on page 4 it takes out "knowingly". This is also on line 29. Tillion didn't see any reason for that in the bill. They will confiscate the article and not pay you. This is noted in 41.35.121 and deals with the composition of the Historic Sites Advisory Committee. Tillion said that archeologists work only with bones. Banfield said we should keep in mind the archeologist is under the Department of Natural Resources. Malone moved the put out HB 387 with a "Do Pass" recommendation. There was no objection. Tillion, Malone, and Banfield signed "Do Pass"; Orsini signed "No rec".

Alaska Hist. Preserv. Act

HB 387

Meeting adjourned at 4:32 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, March 22, 1974

Chairman Tillion called the meeting to order at 3:11 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, McVeigh, Banfield, Chance, Malone, and Berry.

HB 345

Real estate brokers and salesmen

The first item for consideration was HB 345 - Real estate brokers and salesmen. Tillion said that the Commerce Committee CS was signed out with a unanimous "Do Pass" recommendation. Chance wanted to know how section 2 read in the statutes now.

Tillion said there was an attorney in Anchorage who was angry because we don't take the license away from them. Chance asked for an explanation between the original bill and the CS.

Tillion said there was a change on line 10 where it says "shall". Lines 25 and 26--we rewrote lines 25 and 26. This was intended in the original bill but it was difficult to try and enforce it. Page 2, lines 23 and 24. This limits activity--engage only one broker. There is one company in Anchorage that has four brokers. In this case all four would be liable. This limits it to one broker being the responsible broker and the rest would be salesmen. On the last page, line 18 on down. This comes under the part of the law that exempts those not subject to the law. Chance asked what about the banks. Tillion said banks would be exempt. Chance asked about what would be the case if she wanted to rent her house. Banfield asked what is covered in section 8. If a person fails to take an examination after paying the application fee, it will cost about $25 to refund half of the fee. Presently, they refund all of the amount. One of the real estate representatives said this is to endeavor not to cost the state so much money. He also stated that most of this language is housekeeping. The big change would be in section 1 on the full-time executive. We will take care of this work.

Malone asked about present law and the proposed bill. The only case where a person would have to be licensed to sell his own land would be if he was selling out-of-state subdivisions. This is in the Uniform Land Sales Practices Act.

McVeigh moved and asked unanimous consent that we report out CSHB 345 with a "Do Pass" recommendation. There was no objection. Tillion, Malone, Chance, McVeigh, Banfield, and Orsini signed "Do Pass" on the Commerce Committee Substitute for House Bill No. 345.

HB 335

Alien ownership of land

HB 335 - Alien ownership of land. Chance asked to have the "resident alien" definition. Randy said he changed this to read "lawfully admitted for permanent residence". The alien has to have declared his or her intent, not necessarily to become a citizen, but to become a resident. There are a long series of non-immigrant classifications. Chance asked if this term refers only to those coming into the country declaring that they are going to be here permanently. Randy said they didn't have to file a declaration of becoming a citizen. Chance thought that term should be changed in the bill. She was referring to the term "resident alien". Malone wanted to know if present law meant that you were a resident for the purpose of becoming a citizen. Tillion said that's what we have now. Malone said he didn't get that from what Randy said. Tillion said that some people are bothered by people coming here to work for British Petroleum. They are only here as long as the offices are here. They can't buy land--they would only be able to lease. Banfield said that could be a hardship. Tillion said you can't buy land in Japan if you are going to be there for ten years. You can only lease and that's what this law is for, too. Malone returned to "aliens not entered for permanent residence" portion in the CS. Why not make it even narrower and say aliens who are admitted for the purpose of obtaining United States citizenship.

Tillion said that what you have now since they changed the law--you come under the first category. You are not eligible for citizenship until you have been here three years. You will screen out the Arabs this way. Chance said you would also include "Ishie" that lives here in Juneau. If he wants to sell his home he can't buy a new one. Banfield said that bothered her, too. Tillion said he could own a new home--only it would be on leased land.

Malone asked about page 2, line 7 of the CS. This is about corporation and Malone would like to have that explained. We always get into complications because of the nature of corporations. We have a lot of these foreign corporations that aren't aliens. Randy said this was an attempt to cover the problem that you have with a corporation that may be admitted to do business here. Ownership may list some US citizens, some aliens, or all aliens. This is an attempt to say which ones are subject to the restrictions. If you pass this law you want to cover corporations. Having a group of aliens incorporating to buy land--Randy didn't think you wanted to go as far as to say something like the 51% rule. Tillion said they had this with radio licenses. Malone asked if presently there was a way of determining who own stock in the corporations. Randy said there is no way to tell the citizenship of the members of a corporation.

Tillion said that in radio licensing you have to show who owns everything. Malone said he was referring to corporations whose stock is owned by other corporations, etc. Tillion said you should be able to determine this from the Board of Directors. Chance asked how this would affect the Japanese timber operations. Tillion said they don't own the land. This is all leased land. They do own some of the canneries and the land under that. That is why he things you need the grandfather clause. In Sitka they also own the land.

ownership of land

Banfield asked about the Yukon-White Pass Railroad. What if they want to expand their docks? If they had to buy more land, they wouldn't be able to do it. Tillion said they would have to take a 55-year lease.

Malone asked where the grandfather clause section was in the bill.

Chance asked about the surviving spouse and children. It seems you would have a constitutional problem of refusing them the right to inherit the rights to the land. Tillion said this stated "aliens not lawfully admitted". Spouse and heirs can be living with them and the property can be in the alien's name--they would not be able to inherit. Banfield didn't think that it said that. Randy said it was intended to recapture land in the same way the grandfather clause in that it catches land the second time around. If it is under the grandfather clause now that ownership is all right. We don't want it to change hands again to somebody who wouldn't be able to buy it now. If they are persons who are able to buy land now, there is no problem.

Chance said you cover an heir lawfully admitted for permanent residence and the person was the alien. Randy said that maybe he should look at that. It should cover both. If you have--the decedent would have been only holding land under the grandfather clause. He bought it before--his heirs are also aliens not lawfully admitted, consequently, they wouldn't be able to buy the land. You are going to allow them to take it and hold it for this period of time. It is not intended to deprive them. If the person's children were citizens it should go to them. Randy said he could clarify this. It is hazy. He said he would recommend adding surviving spouse and survivors not lawfully admitted for permanent residence. He would make sure that if the spouse and heirs are not otherwise able to buy the land. Chance wants this put in there. Malone would like to have some language that would clear this up. Malone suggested we take out "of aliens". It makes it clearer.

Chance asked what would happen if a US man married a foreign woman and she was lawfully admitted for permanent residence. He died. She would not be allowed to inherit the property. Randy said nonimmigrant spouse and children

HB 335

ownership of land

can be here as nonimmigrants. Malone said that normally the property is in both of their names. Tillion said if a man had children who lived elsewhere and they returned home, they couldn't continue to own land in this nation. Tillion asked if the committee wanted to prohibit aliens from owning land in Alaska. Chance said she thought there are other things that we should consider. Take a man that marries a Japanese woman. She helped build up the estate but because she is a nonimmigrant she cannot inherit. Tillion said if she wasn't entered lawfully, then she couldn't stay.

Chance asked Mr. Audie Moore what his reaction was to this type of legislation. He said he was in favor of it. He said it is possible for the oil producing nations to buy up all the land that is left in Alaska. He said they are very much in favor of this bill.

Malone returned to the rights of surviving spouse and heirs. He felt we should take out "of aliens" on line 22. Chance agreed but asked if we needed a positive statement showing that heirs are covered. Malone moved and asked unanimous consent that in the CS we strike "of aliens" on line 22. This was adopted; there was no objection. Randy said he changed this to surviving spouses or heirs not lawfully admitted for permanent residence who has acquired property in the state by demise or for 25 years after the inheritance. McVeigh moved to adopt changes as specified by Randy. There will be another CS prepared for this bill.

HB 428

Health certif. for animals on ferries

HB 428 - Health certificates and evidence of ownership for animals transported aboard vessels of state ferry system. Dr. Fred Honsinger testified before the committee on this bill. He said people are hauling large animals on the ferries--for example, horses. Many of the animals are diseased and they have no health certificates. This is not covered under present statute and he was in favor of this legislation hoping it would solve this problem.

He said that as the state veterinarian he had tried to work with the ferry people. They didn't think they were obligated to have health certificates. They could do this at the time they are checking tickets. They could ask for a valid health certificate. Malone asked what was wrong with the other committee substitute. Banfield said it had certificate of ownership. We took that out. Tillion said that Dr. Honsinger testified to have it cover just the ferry system. They don't necessarily need it in other areas. Dr. Honsinger said the state handles 4,800 health certificates involving 14,500 animals. He said they expected an increase. Banfield asked him if he just wanted it to cover ferries. She wanted to know why Mr. Ose was worried about animals also coming in over the highways. Mr. Honsigner said it was a separate deal with the horses coming in this way. In the Southeast section of the state you have everything coming over the Canadian line.

Health certif. for animals on ferries

Mr. Ose is worried about the new diseases picked up this past summer. He said his department could handle that by regulation. There is also a federal responsibility for transportation between countries. All large animals coming up the Alcan have to have certificates. Malone asked if all other forms of entry were covered. He meant highways and airlines. Mr. Honsinger said we already have statutes that cover them. There is a problem with the ferry system. Chance asked if the problem was a difference between the state agencies. He said it is impossible for his office to do anything at their end. It should be done in Seattle or Prince Rupert. It is no different that with the air carrier in their regulations we provide what is required. Honsinger said this couldn't be covered by regulation. This legislation would eliminate any gray areas. When you give them a mandate, then they do it. Banfield moved the CS for HB 428 be reported out of committee with a "Do Pass" recommendation. The bill was signed out and Randy will prepare the CS at which time it will be sent to the Chief Clerk's office.

HB 428

Crime of extortion

HB 794 - Extortion. McVeigh requested that we have a statement from the Department of Law on this bill. Malone will go see the AG and request him to come to the committee meeting.

HB 794

Meeting adjourned 4:12 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, March 25, 1974

Chairman Tillion called the meeting to order at 4:03 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Tillion, Orsini, and Chance.

Election Campaigns

The first subject for discussion was SB 388 - Election campaigns. Karen Hedland, League of Women Voters, testified in favor of this legislation. SB 388

Orsini asked about an advertisement. This would be a particular campaign issue and a group could be formed strongly supporting that issue. That group's expenditures are not a part of the candidates expenditures. He said he takes issue with the phrasing. As an example he might say "Tudor Road should be a four-lane highway". Some other group would form a Tudor Road Expansion Committee. There would be a lot of advertising in this type of arrangement. Their forming this group would be legal but it would in effect be supporting me.

Malone said there might be some problem in trying to cover everything. This covers only the candidate or his office. You could come out for or against an incumbent and it would be covered. Malone said he didn't know how you could do it with issues. (Beirne arrived 4:07)

Mrs. Hedland said that on page 3, section 7, where it mentions members shall receive conpensation of $100 a day--you need an amendment to say "while they are working on committee business". Mike Miller agreed to this change.

Tillion asked if anyone had remarks to make on the amount of the campaign limitations. He said he could see so much per voter. Orsini asked about dividing the number of candidates in a district. He said they had a state senator that campaigns from the identical district and it doesn't cost him any more money. Karen said the League had no position on this point. She thought that everybody running for the same office should be the same. It should allow a newcomer to have a chance.

Representative Mike Miller said that the initiative just says that the amounts of limits will be $6,000 and $8,000. He said he was endeavoring to pass a bill that says nearly the same. He didn't think it could pass otherwise. The formula was based on a per capita amount. He said in every case the amounts came out to about $6,000 for House and $8,000 for Senate. This is the same as the initiative. We preferred to do that rather than stating the amount because this would increase because of population increase so we wouldn't have to change this figure later. Several members of the legislature would like to see it higher. It does balance out, though. The initiative locks us in.

3/25

SB 388

Mr. Miller didn't think you could vary from the initiative. Tillion said he could see that part of it. He did question whether or not we would come out with about $9,000 each. Miller said that was wrong--it comes out a little less. Mr. Miller gave the chairman a breakdown chart showing the figures.

Campaigns

Chance asked why for the house districts it is divided between candidates but will have multiple member senate districts and they won't be divided. Miller said they were in the HCS. Tillion said he had difficulty with that. Single senate district--they both go to the same media. The one with the smaller number of people will have the advantage.

Orsini asked if any consideration was given to what was to be done with money left at the end of the campaign. Miller said you would have to keep reporting where it goes. Orsini said you wouldn't be spending any more on campaigning. Miller said you would do the same as you are now. You would have to report it. The practical thing to do is put it in a savings account--as long as there is any left. Chance asked if this would be money reported as income for the next election. Mike said it probably would be but you would show it for the year before. No, that's not right. You would identify it as left over from the last election.

Orsini asked about disclosure on page 11. Can an individual make a $100 contribution to several candidates and not be listed but any time it is more than $100 he has to be registered. Miller said the candidate has to make a report himself to the committee. If a group gave him $100 he would have to report it.

Orsini asked Mr. Miller on correct reporting. You say this is done by commercial advertisers and the senate version says computer people, and there are other people who affect computer information. Mike said he eliminated services. That was something somebody did in advance. We didn't feel that was really a campaign expenditure. In a sense it is, though. Tillion felt it is if it is published. Orsini gave an example of the amounts necessary for labeling or mailing. This is part of the campaign expenditures. Malone thinks this is covered. Orsini said you would have to report this as part of the expenditure but the advertiser wouldn't have to report to the commission. Why is this? Miller said he didn't think they looked at it so closely. It is easy to contact each of the media because there aren't very many. It is probably not enforceable if they wouldn't report on their own.

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Orsini asked if anybody besides the media have to report on the initiative. Parker said it was No. The senate bill had other things. Orsini asked Senator Croft about page 9, line 3. He read from the bill. You mention computer services. He asked why it was included in the senate bill and omitted from the house version. Senator Croft said he viewed this as a check on the accuracy of the candidate's statement. The House required the reports prior as well as after the election. We only required them after. He said they get information from the contributors and groups. It is true the media is easiest to check. The largest amounts are spent in these other areas. He said he thought it was necessary to cover them. Miller didn't think there was any objection to that. Tillion said that is his area travel is the number one cost and that is not included. Miller said they just excluded it. Orsini asked how they addressed themselves to the loan situation. Mike said you had to report them. Orsini asked what would be the case if an individual is loaned an amount of money by the private party and after the election they forgive the loan. Miller said that gifts have to be reported. Tillion asked about if you are building a house and the fellow loaned you the money, you spent your $6,000 on the campaign subject to the limitations but not to the reporting. Parker said that was why we had to have a conflict of interest bill. Tillion said then you wouldn't be able to specify the amount. You say only who paid you something. Parker said in the "house" example--we would have a house listed. Mike said this was covered in a very broad category. He said Hickel might be a millionaire but you still know who the candidate is beholden to.

Chance asked about page 23 of the HCS. You mention bond of financial interest--state offices--is there intent to include municipal offices, also. Miller said it does include them unless they opt out. Chance read from the bill and it doesn't include municipal officers. Miller said she was right. The conflict people wouldn't be included. Fran Ulmer said page 2 didn't cover the conflict of interest chapter. Miller said we were only talking about campaign disclosure. Karen said that was one of the League's questions. She said they thought the conflict was more important at the local level. The League was concerned that the conflict does not includes this for the municipalities. Miller said that any home rule city could enact this if they want to. Municipalities and states have one thing in common. They use the same techniques in elections. They use the same media. You can regulate the

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practices of the other but the offices are different. You would have to list the borough chairman, mayor, planning and zoning commission, etc., and someday you may want to do that. Karen said the municipalities may opt out. Can you say they "shall" adopt these things? Chance said the opting out is regarding campaign disclosures not conflict of interest. Tillion said he thought we would have to cover municipalities at another time. This is usually with the assessing and zoning and planning departments. Repayment offers come in on these offices. Miller said he felt what they did in his bill was consistent with the initiative.

Fran Ulmer said it was the same as the governor's bill.

Orsini went back to campaign contribution disclosures. Is there a fiscal note on this? He asked what happens if the legislature doesn't give us the funds. Tillion said he didn't think that if you have "shall" they would have to fund the money. Orsini asked if we had any idea of how much this would cost. Croft thought it would be about $430,000. Tillion asked what the average was per person. There is a problem when you get into the Anchorage area. Parker said it reaches the $6-8,000 figure. Orsini said one section talks about people who do the work--paid campaign help. It gets into the contributions on page 14. Professional services for which charges are ordinarily made--if a professional sign painter volunteered to paint signs for you then you would have to consider that as a contribution. Fran said that was correct. Orsini said this would be up to the honesty of the individuals as to how much the charges are worth. Miller said it would have to be ordinary market value.

Tillion didn't think there would be any problem in Anchorage giving a range up to $6,000 for the first campaign. Orsini said that wasn't correct. Chance said this was always a problem even for the incumbent. Miller said you were not requiring them to raise $6,000. A lot of people win their elections on a lot less. He said this limits it to the extent that someone can't buy his election. There are other ways to get publicity like going around knocking on doors. Parker said if you get this too low--in the bigger districts they are still campaigning areawide. They have to have a certain amount of media time. In Anchorage this would be a substantial cut to what they have been spending. One individual spent five times that last time. Tillion said there was a problem in the urban areas.

Malone said he would like to hear from the witnesses taking one piece of the legislation at a time. Tillion thought we should work with the SB since it has already passed the senate. Mike Miller said his bill said the same thing but added the conflict of interest to it. Tillion said the League had testimony on it. We will hear from them now.

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Karen Hedland said the League felt there were some constitutional problems because of a law that says the legislature has the last word. In the senate bill, the penalty section was better than the HCS. Speaking to the HCS, she said basically they would like to separate this bill from page 22 on because they felt these were two separate issues. She said there was precedent for this around the country. She said the League had a strong position on all of these issues. They do not like to see this bill become all jumbled up.

Karen said they didn't have any major objections except the one already suggested amendment on page 3, line 13 about the $100 per day per diem. Tillion said he agreed on this because we don't want to pay them $100 per day the whole year around.

On page 7 Mike Miller has determined that this 40% times the population--this takes care of the cost of living. The League thought it would be more specific if done according to the cost-of-living indicator. It may be that the dollar will devalue faster. Page 7, section (c) need clarification.

Page 9, section 100 regarding contents of reports--The league committee felt section 4 which deals with ticket raising is a clumsy thing. Tillion said the committee would check on this point.

Karen said that solid waste is another issue. This bill is creating a problem with the people.

Page 11--reports by Commercial advertisers. She said they were not too sure that they see the need for the commercial advertiser to issue all of these reports. One is five days before the election -- one report at the end would be adequate for the check that is intended. The intention is to make sure that the candidate is reporting what he is spending. This is a burden to do it more than once. Tillion said they would just have to update the first report.

Every check has to be countersigned by the Lieutenant Governor before the bills can be paid for advertising.

Page 13. Mike Miller has pointed out they have a violation--there is a willful violation clause and finally the senate version took that out. It is cumbersome so the senate version is best on that point. They simply say that the election shall be invalid. The League is very fond of the election pamphlet section. There is a statute now that says the Lieutenant Governor may provide the voter information on the ballot issues. She said the League got no help with the distribution so it was really a hassle. She said they also didn't have any money to finance the distribution of same.

Judy Hopkins commented on page 8, line 2. It says that no person may make a contribution for a ballot proposition. How will this effect the League? Mike Miller said this is to keep, as an example, him from giving $10 to Orsini so he would put his name on it. You wouldn't have to identify the whole membership. Tillion asked if you couldn't tie COPE up? Miller said No. Orsini mentioned moving the capital. There is a committee opposing this. The contributors to that organization have in excess of $100--they have to be listed. Miller said this was true. Orsini went back to COPE. If they spend more than $100, will they have to be noted? Miller said they would say in total that they had paid more than $100 in--no list would be necessary. Karen asked how do you come to the conclusion that they don't refer to an organization. She said for example that the League gives $5,000 to support conflict legislation. She felt they would be subject to the limitations and the reporting, etc.

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On the certification. Does that mean certification for individuals or organizations? Miller said it would be a person in this case and includes public entities. They couldn't give money to the PTA because they didn't want to--they would have to indicate it was their own contribution. If the League did this they would have to say it was the League doing this. Tillion said that each businessman contributing to the League has to report his own if it is over $100 or would the League have to report it? Fran said she thought you have to read several sections together. This is part of why it is confusing. Look at section 50 on page 5. A statement of organization by candidates and political committees. Then look at the definitions on page 15. It is a combination of two or more persons to support a candidate or a ballot proposition. They would be organized specifically for this purpose. There is an ambiguity. Karen thinks a person embraces "organization". Under our statutes there is no question. You could add "or political committee".

Orsini asked if the League of Women Voters supports the capital move--would this apply? Fran didn't think this would have to be applied in this way to the League. The league would have to identify their contributions. If the individual gave over $100, under another section of the Act, he would have to report it. Orsini asked if that would be the way with the league if they were going to have a campaign fund to oppose the campital move. He asked if it were in excess of $100, would it be listed somewhere? Fran said the person would have to individually report this if it were over $100. She said that much of the bill relies on the individual's integrity. Malone still felt that it required the league to report this.

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Chance said she agreed with this, but it seemed that both would have to report. Orsini asked what was the case, did they both have to report? Fran said there was a problem. The individual has to report and when the League uses the money they have to report. Whether they have to report the name for that purpose, she didn't know. Fran said there was no requirement for political committees to identify an individual contributor for specific purposes. Malone felt that there was but it only applied to elections for office. Mike Miller said that was right.

Chance asked about the initiative on page 6, line 5. Tillion said they don't have to report who put up the money. Parker said that if the League wages a campaign to stop the capital move they have to file a report of their expenditures and give an account of where the money came from. Tillion said there was no place that required them to show where the money came from. That is the catch. Karen said the League came out against this but wouldn't mind if they said they got say 10% from SC Alaska, 25% from Western, etc. Chance felt that if you are naming that group as a political committee they would be under this. This would be especially true if they accepted contributions for this particular issue.

Fran turned attention to page 9, section 100. Here it describes the contents of the reports. (3) says: Total amount each of which is $100 or less and the treasurer must have on hand a list of names...That is for a cross check. If the commission decided there was a problem they would have access to this information. The treasurer is required to keep these. This still doesn't relate to ballot propositions--taking the money for a specific purpose. That doesn't seem to be covered.

Parker turned back to page 6, (c) and read from the bill. He said he thought they had to report any money as long as they have it. Malone said it was clear that a list would have to be maintained. Whether it would be part of the report--he didn't know. It would be available for inspection.

Orsini asked about page 9, subsection 2. You talk about municipal office and state office. The issue campaign doesn't seem to be addressed. What kind of report would that group file? Chance said that under (3) they are required to have a list. Malone said we could strike that by taking out the word "municipal".

Orsini asked if contributors to the organization would be made known to the public. Mike Miller said they wouldn't. If the commission suspected anything they could go in and investigate. As far as revealing all the names of the constributors, we didn't go into that. He didn't think we should.

Tillion asked about statewide ballot propositions. He said you would have to show what percentage of support for or against came from Anchorage, Fairbanks, Valdez, etc. This is a valid thing to know. You would know from what area you received the most support.

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Orsini mentioned private interest group that might promote the capital move or any other organization and the public wouldn't be informed who they were. An organization like Alaskan's United. If you find out that a very large organization in Juneau gave them all the money, the people should know that. In this case the person could remain totally anonymous. Tillion said the Chamber of Commerce lobbies are that way. The basic amount of money came say from the Alaska Miners' Association. We should know that. He said he was not sure this is the proper place for disclosure.

Malone said we are only talking about this in the election campaign. Beirne gave the example of a party--say the Republican Party--give $300 to a candidate. The money came from a labor union. They could tell the candidate where the money came from but there is no requirement that they have to report it. Parker felt there was a clause in here that would cover that. Mike Miller said there are a number of people who may want to contribute to the particular party and the monies would be divided evenly. Karen said this is what she meant when she suggested separating the conflict of interest section.

The taxable income deduction is under the conflict of interest section. You wouldn't want to see that deleted. The section in the HCS is on the very last page--31. This is identical to the senate version. There was a question as to why this was a part of the conflict division. Fran said it wasn't a part of the conflict bill. Karen said that anyway they wanted that part left in.

On the conflict portion--page 25. The membership doesn't see that a dollar categorically amount is necessary. They believe they want to know your primary source of income. They would like to know the percentage of money--from what source but not the actual amount. Tillion also likes the percentage better than the amounts. You could say you earned so much from fishing for instance, and a certain percentage for something else.

Chance asked where the conflict of interest bill is now. She was told it was in the senate somewhere. Chance wanted to know if the Judiciary Committee would be willing to introduce a conflict of interest bill. Tillion said that was a separate thing.

Orsini said he would like to have all interested parties address themselves to one point--the time required for reporting. Seven days prior to the election, what kind of an organization are you going to have say in the

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primary give you over $100. There are probably 150 to 200 organizations in Anchorage so this commission will be deluged with reports. What is the commission going to do with the pile of information, especially if this is going to make any difference on disclosure. How will they be able to make this available to the public.

Mike Miller said you have to identify the very real problem. The Governor's bill even had disclosure. If there is any purpose in the disclosure, you have to have most of it before the election. Try to get this information to the voter in advance. In certain cases maybe the best thing done is that it is filed. The candidate could go in and check on his opposing candidate. They can hire staff--probably a lot of temporary staff.

The first thing--you can go down there and the best thing that can happen--it might be--so you can make the maximum use of the information. We went to eight days before the campaign. Orsini said that conceivably you could computerize the information. Mike said these reports are filed with your district court in addition to the central commission.

Tillion asked Senator Croft the facts about this bill in the senate. He said he didn't think the senate would concur on the ethics. He said there were some provisions in the election part that troubled him--in the HCS. He felt you may well wind up in a free conference committee that will come back as an election campaign bill not as desirable as what they got through the senate. He feels easier with the basic senate version and have the House amend this on the Floor. As for the conflict of interest--he didn't think this should be added to the senate bill. Senator Croft said he was quite proud of the senate version--a pride in authorship. Tillion said he didn't want to vote on anything that will put the bill into free conference.

Parker said we still have these things coming on the ballot. If they want those bills they can play with one watered down or nothing. Tillion said we still have the problem that the one brought over from the senate is better than what will go on the referendum. Parker said we will get a weak disclosure bill and a weak campaign bill. Croft felt the senate had put out a decent campaign bill. Malone asked how hard it would be to get one of those conflict of interest titles out of State Affairs. The House might pass the HCS and then it will go into free conference. The public will never know that the conflict of interest has been pulled out of the bill. We can send them two bills. Tillion said the senate wouldn't kill it if it was kept clean. He said he thought we would be letting the senate off the hook if we don't send back the same campaign bill that they sent over here. There is concern about what would come out of a free conference committee. A lot depends on a lot of studying. Malone said that he

concurs with Senator Croft. He felt we should handle both things separately. We could then send them a conflict of interest bill with it. Orsini had a question for Senator Croft. Based on the campaign portion of the State Affairs CS, would the senate accept that? Croft said he thought there are some problems with some of the proposed language of that bill. He said the senate will concur with a strong campaign bill. SB 388

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Tillion said we would try to get another title for HB 543 or we will lose this senate bill. Mike Miller objected because he didn't think we could get anybody to get the conflict of interest bill out of committee. They will just leave it there.

Senator Croft said he would not presume to tell the committee what to do. He does think there is a perfect vehicle for the conflict of interest bill. You may want to pass a conflict of interest bill and take another bill from the senate to use for this purpose. Mike said he would like to do that. Tillion felt certain that the senate would rather have the referendum version than something that would work.

Orsini asked when an initiative passes, how long is it effective? Tillion said it was effective for two years. Orsini said there is an effective date and it would effect this election. Croft said you can amend it at any time. The most disastrous thing would be for the initiative to pass if there is no campaign. You will probably find that most every candidate would have violated some part of this. Mike Miller asked if there would be any objection to adopting--the senate version it would be possible on the make up of the commission--five of the four could be from the same political party. In the House version it is two from each party and one other. Tillion said this doesn't really matter. Orsini asked Karen to comment on the commission. She said they tried to think of who is going to do this. What is an equitable way of selecting them? She said there was strong feeling they didn't want their leaders selecting their people to be on the commission. Orsini said his concept would be each political party would appoint three and the majority of these six would select one additional member. Croft said he would have no objection to that. Tillion said he could see one person appointed with the governor making the appointment. The governor and the chief justice and the four appointees they would choose another. Orsini suggested saying rather than two from each party that we say "not of the same party". Miller felt this was a good point.

Malone moved and asked unanimous consent that the committee introduce and report out of committee with a "Do Pass" recommendation, HJR 96- which is recommending the passage of H.R. 4760. There was no objection. HJR 96

Meeting adjourned at 5.40 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, March 26, 1974

Chairman Tillion called the meeting to order at 3:13 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, McVeigh, Malone, Orsini and Banfield.

Use of fishery records by Limited Entry Commission

HB 655

Tillion said that we had HB 655 - Providing for the use of certain fishery records by the Commercial Fisheries Entry Commission. The commission is not able to get the facts needed from the fish tickets because they aren't with Fish and Game--they are with the Governor's office. Our other laws won't allow Fish and Game to give out this information.

Malone moved and asked unanimous consent that we report out HB 655 with a "Do Pass" recommendation. There was no objection and the bill was signed out. Tillion, Malone, Banfield, and McVeigh signed "Do Pass"; Joe Orsini signed "no rec".

Confidentiality of bank records

HB 781

HB 781 - Confidentiality of bank records was the next item for discussion. McVeigh said that we have had this before and the governor vetoed it. Tillion said he had a letter that showed this will be passed if certain changes have been made. Tillion asked if the committee wished to put this out with individual recommendations. The changes were made in the penalty section. Tillion will carry this on the floor. Tillion, Orsini, and McVeigh signed "Do Pass"; Malone signed "Do Not Pass"; and Banfield had "no rec".

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Tillion said that SB 388 was before us again. Senator Croft will continue his testimony. He said there were some things in the house bill that we might want to consider. There are some good provisions. One of these is the vice section. Sometimes it helps to check into some of these things in the AG's office. He said there was a provision in the bill in answer to a question by Orsini regarding say a sign maker that contributes by making signs. There is a section on how that is handled. You have to report that just like a cash contribution. In the house bill there is a provision on page 12--it might not cover the sign maker but it does cover other situations.

He said there was also a provision on page 6 of the senate bill that may need to be clarified. Under subsection (e)--contributions may be made to a candidate or a political committee--so that you are prohibiting any others than those--this needs to be clarified. Croft read some new language for that part. He wants us to replace (e) with a new (e). Banfield asked how it would work--neither the campaign treasurer or the deputy treasurer are there. Croft said to have it all made by check payment made to the campaign manager or the candidate. Orsini asked

about a Koffee Klatch for the candidate. Under contributions would that be an expenditure? Croft said that the coffee and the cookies would be the contribution--that's not considered. Banfield said there was no objection to have a party, is there? Croft said that if a candidate decided he was going to raise a lot of money through these coffee things he would have his campaign treasurer there to receive the contributions.

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Malone asked to discuss the charges on page 12. Tillion asked if Croft felt the senate would adopt that on voice vote. This basically cleans up the language of the referendum. Orsini asked about the significant difference between the political committees. The senate bill only refers to those who take part in the primary state election of candidates. Tillion said this was true. We do have to consider getting this through the senate, though.

Croft said he felt that when you tried to include groups other than those for the election of candidates, you would have some opposition. You also run into severe constitutional problems. With COPE the primary purpose is to support candidates. (Chance arrived 3:30) Any person or group who gives more than $100 will have to file a report. The problem with groups is that you can set up groups just for this purpose. Croft felt the senate bill covers this as well as you can. He felt it was tight enough to cover subterfuge.

In reference to what is in the initiative--section 16 has a provision relating to charges by commercial advertisers. Senator Croft said he could check further on this. With that provision in the initiative the senate might be more willing to accept the amendment. The initiative defines commercial advertisers as one who sells--etc. Billboard companies are included, so this could include sign painters. Producing printed material for broadcast was discussed. This could be for broadcast or distribution. Tillion said if it is used as a handout, then it would cover the sign painter. Croft said if we wanted to cover signs fees then you could add "sign companies". Any commercial advertiser who gives a separate rate has to report that if it is more than $100. The provision prohibiting contributions by that class by rate cutting or rate gouging is in the bill. Tillion said that radio and TV were already covered. This doesn't cover newspapers. Chance said the federal law only covers broadcasting and not the printing.

McVeigh asked if there had been a cost analysis on this bill. (Randy Berry and Fran Ulmer arrived) Croft said the house and senate raised $7,000 for the House and $14,000 for the senate. Banfield asked if anybody had figured the cost of the election pamphlet. Croft said that would depend upon the amount of the appropriation for that purpose. In the senate we had $156,000. He felt this was rather high. The legislature can specify the amount for that purpose.

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Banfield said she couldn't make up her mind about what "group" meant. Croft said there is a definition on page 12, line 4 of the senate bill. Tillion said he didn't get the section where he said the house version prevents an advertiser from making any donation. Croft said this is by making a different rate charge. He could charge you one rate--his regular charge is different.

Banfield went back to "group". She asked about the people that are grouped for backing a slate of candidates. Croft said they still would be a group. Banfield asked if this would include the John Birch Society. Croft said if its main purpose is to back election of candidates--they would. If backing candidates was only incidental to their main purpose, they would have to report any contribution but wouldn't have to reveal all of its financial operation. Orsini asked if this would be true. You have defined group as someone whose major political purpose is... Tillion said that was two separate things. Contributions under $100 have to be listed. Croft asked if what they were worried about was whether it should say candidate "or candidates". What about the opposite and the Ad Hoc group--asked Banfield. They are formed to elect people aren't they? Croft said they were. He, at least, would think that was their primary purpose. He said if he understood the rules of drafting, the singular includes the plural. Banfield wanted to know if they would have to file under this. Croft felt that they did. Tillion commented--to take over a convention and to influence candidates--the Chamber of Commerce and others would not be considered their major purpose. Since they made a contribution over $100 they would have to report that.

Banfield asked about unions, teachers' organizations, etc. Are they included in this? Croft said he wouldn't want to say. Orsini asked Croft to point out where it says that a contribution by the John Birch Society has to be reported. Croft said it was on page 7, section 15.13.080. Orsini said we had defined group as to one or more persons whose main function is to elect candidates. Does "person" mean not a single individual but several also? Croft thought they would for that purpose. You are worried about the definition of group which would exclude them. It would be helpful to the public to know that the John Birch Society contributed "x" number of dollars to each of the following candidates. Rather than checking each candidate's contributions--to set out the John Birch Society. Chance felt they would come under the use of "person" as used in this statute. This would be an organization acting in that function the way it is used. It means a natural person, corporation, or organization.

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Orsini asked if a group would include a volunteer organization--do you mean those also? Chance said that would be right. Croft answered that by reading from the statutes of Title 1, section 10.060. He finished by saying "unless the context otherwise requires it."

Banfield asked about section 15.070 on page 5. No person may contribute to other than his own campaign $1,000 in the aggregate. Does that mean that your husband or your wife couldn't contribute more than $1,000? Page 7 on statement of contributions--furnishing goods or services to a candidate. Does this mean putting out a mailing? Croft said if it were something for which you normally wouldn't receive pay--then it is not covered. If you are in the business of putting out mailing--they would then be giving a service that has to be reported. Banfield said she was getting at the organization--whose business it is to elect people. They put out the mailing. PACE or John Birch Society--do they have to report? Croft felt they would. He said he wanted to make it clear that there is some question about this legally. The right of the group to communicate with its members is different from the right to communicate with the public at large. He said he personally thought this was a contribution of a type. Clearly the purpose of the communication is to distribute the letter rather than comment about the candidate retained by the group. There is a shady area. The right of people to assemble peacefully is involved. Orsini asked about a general mailing by the John Birch Society, other than to their membership. Croft said that both are covered. This would be a contribution to the candidate. There is some question as to whether the state can inquire into their right to communicate with their membership. Maybe they can't say they have to reveal this. Tillion said that the conservation societies do this by mailing only to their own members. Orsini asked if this would be a general mailing supporting a candidate--is that a contribution and does the candidate report it? Malone said there was something on this at page 7, line 9. He felt it was covered. It is having to do with the same section--statements by contributors. The reports are listed on page 11 and groups are on page 12.

The question is on page 7, line 9. Shouldn't that be "effect" rather than "affect". I am not sure what the difference is--the intent is to elect a particular candidate.

Page 11, line 29. Made for the purpose of influencing the nominee--on line 6 of page 12 the major purpose is the major nomination or election.

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In a single member district where there are two people running--a group starts up. We are not in favor of Mr. "Y" but they never say anything about Mr. "X". Would they be covered under this bill? Croft thought they would be covered in that case assuming that they spent more than $100. They would have to report the source because there is no $100 limit. They would be a group collecting money from several people. Their expenditures are not attributable to any one candidate. They operate as a bona fide group independent of the candidate. Malone said they would be covered under the reporting. There is a question as to whether this is adequately covered in the bill. This would especially be true if the group was formed to defeat a candidate. Chance said that was influencing the nomination or election. Fran said there was some inconsistency. If you say influence election rather than nomination and effect rather than affect---

Malone said that someone might raise a question on this. Chance said they would be influencing the guy they would be trying to defeat. Fran said this was under contributions but not under group which could be altered to embrace that concept. She referred to page 7, line 9. Orsini said we keep referring to candidate but we don't mention ballot propositions. Croft said that was right. It is not included in the senate version. Malone said that you might argue that that is a different thing. The idea in a single member district in the general election--if a group campaigns against someone it would have an effect. What requirements are placed on them? Croft said they would be required to report their expenditures. Malone asked how those things would be counted. You couldn't fairly count those expenditures in the campaign expenses of Mr. "X". He might have nothing to do with the group.

Croft said as far as the point about the use of the three different phrases--that is a good point. It probably should be clarified. He said he wasn't sure that it was necessary but that is the type of thing that somebody might try to make something over. This would be changing it to influencing or affecting or adding both. Malone said in the HCS it is covered. It says for or against the candidate. Fran said the definition of contribute refers to the purpose of supporting or opposing a candidate. This is on page 14.

Orsini went back to section 50. Page 4--talking about groups forming. Upon receiving registration with the commission--what happens then? Croft said if the candidate doesn't come back and say they are operating without his knowledge then he is responsible for their action. He has to make this statement under oath.

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Croft said on Page 7 we should change "affect" to "influence". Tillion felt this would be a good idea. Orsini went back to page 5. Is this cash payments or what is this? Croft said that was to avoid any confusion as to whether something is an expenditure or contribution. If you gave $100 for the purpose of paying something or to the person that would otherwise receive it. It will still be a contribution.

Page 12, line 7. To avoid any question of interpretation the "and" in the middle of the section should be changed to "or". Malone asked for an example of what would happen in the case of the hypothetical group that starts up in opposition to a candidate. He spends a great deal of money. Croft said they would have to show the source of their funds and the level of their expenditures. Tillion said the candidate can disavow so he is cleared. Malone noted that this was in opposition to--would they be defined as a campaign contributor to somebody? Croft said No, because they are doing it themselves. They are running an ad in the paper attacking the other person. That is a tough area. He said he knows that this happens. He didn't know if this would be considered a contribution to the candidate or not. Croft said he didn't know the full limits of the question. Malone said they were a group making a report under 13.110. He had said that he was concerned with that procedure being used to subvert election reform. Croft said that the critical thing is whether they have any contact with the contact. A group desiring to comment free of any type of control is pretty well protected by free speech and other constitutional provisions.

Malone said there evidently would not be any limit on what they spent. Croft agreed. Malone felt this was a serious problem. Croft said that many feel that the expenditure is unconstitutional. There are groups like Common Cause feel that it should be and can be done constitutionally. Others are equally convinced that you cannot cover them.

Orsini asked if there was equal time against newspapers? Croft said No, but there is for radio and TV. There is a federal statute in the event of an attack the candidate can be given equal time for rebuttal--that law was challenged now and it is in the Supreme Court. There is no decision on this as yet.

Malone thought there should be a section of this bill that covered a group conducting a negative campaign. He was talking about limiting what they could spend in some areas. Croft said it was his feeling that you can regulate the expenditures made by a candidate and those groups operating under his control. You can't do it against the others constitutionally.

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He felt that if you tried to get into the area of trying to limit the expenditures of bona fide groups commenting on the qualifications or performance of elected officials that you have even stronger constitutional problems. He said he really thinks that what we are dealing with in this area--freedom of speech, right to vote, right to assemble--he felt you have to be very careful in trying to solve that problem.

Banfield asked about people who are employed with radio and TV stations as announcers--what about them filing for office and campaigning? Croft said he hadn't looked into that. The only one that tried that was defeated. Croft said he would assume that the station would take action voluntarily, though. Chance said they would take them off the air. Banfield asked if this would come under federal law. Croft said that it would. Chance explained about equal time and FCC regulations.

Orsini asked about page 14, section 3. He wasn't sure what this section did. Croft said that 3 and 4 provided a tax credit up to $50 for political contributions. Because of the way the tax code is written--you have to define what a contribution is and 010 provides the limitation on the amount. Orsini asked if that would include services contributions. Chance said it would as long as the candidate provides the materials. Orsini asked about when he made the signs--is his labor the value of the contribution? Chance said he could claim that as a contribution under IRS. She said when she donates her time to the Salvation Army she can't claim that as an income tax deduction. If she was a photographer and gave them pictures to use--then she could take that as a deduction. Malone said this section deals with the tax credit not how the contributions are noted under the bill. Chance said it was on the last page, line 8. The revenue commissioner is preparing a list. When you list the identified deductions you don't have to put down --it would be only the amount. It would be impossible to put the dates because they are not on the income tax returns. If you are making a CS you could--Croft said he would say "dates if available". Tillion asked if the committee approved of a Judiciary CS that will make the changes and would they be willing to put it out. McVeigh said he was in favor of moving the bill. Tillion and Malone agreed to signing the bill out. Tillion said the committee members can bring up any amendments they want.

Malone said that he would move an amendment on page 7, line 9--delete the word "effect" and substitute the word "influence". Page 7, line 22--the same.

Orsini on Page 7, line 8 - after the word "services" add the words "for which compensation is ordinarily paid."

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On line 10 - after "candidate" add or ballot proposition. Malone objects to this. Orsini asked the same amendment for line 23. Tillion asked if this was a serious thing. Banfield thought it was. Tillion said the house bill includes this. Croft didn't think it was necessary to make this amendment. Malone moved to delay discussion on this and proceed with suggested amendments.

Malone moved to amend on page 12, line 6. After "influencing"--that is necessary. McVeigh suggested this deletion up to "or" on the next page. Croft thought we should say "to influence".

Orsini page 9, line 6. Delete "furthering" and insert "influencing". Malone said there was a significant difference in this. If we do that are we moving back into the area of infringing on constitutional rights. Tillion said we should go back and start going page by page.

Malone moved and asked unanimous consent on page 6, line 3 to change "effect" to "influence". Also on page 7, line 9 - the same change. There was no objection.

Croft proposed amendment to page 6, lines 10 and 11. He had a new "e". McVeigh so moved and asked unanimous consent. There was no objection.

Orsini on page 6, lines 16 and 17. Delete "," and the rest of the sentence in that phrase. Orsini moved and asked unanimous consent. Malone objected for purposes of discussion. Banfield asked if there could be a time when the major battle is in the primary. Tillion has no objection to this amendment. Malone removes his objection and the Orsini amendment was adopted.

Parker said that the purpose for the $50,000 was that a guy could be using all his money in the primary so in the final he doesn't end up having none for the general election. This covers the governor and the lieutenant governor. Orsini withdrew his amendment. More discussion on this point brought out that a candidate could spend 99 per cent in the primary and have only 1 per cent for the general. The Orsini amendment was restated and adopted. There was no objection.

Malone said you were setting the limit. Croft suggested striking the "semicolon" and adding "and no more than 60 per cent in the general election campaign".

Malone moved and asked unanimous consent on page 7, line 9 to change "effect" to "influence". Also on line 22.

Orsini moved on line 10 to insert the words "or ballot

proposition". Banfield objected. Tillion did, too, because this will cause trouble on the senate floor. Malone asked how this will fit in with the rest of the bill. Tillion this is the first step in substantive changes. McVeigh was curious as to whether this would cause trouble for the state in their bonding propositions. Pamphlets and ballots--would it affect that? Croft said he was dubious in getting into another area. You will have a problem with that. Orsini's amendment was not voted in.

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Orsini moved to amend on page 8, line 14. Delete "or" and insert "and". He asked unanimous consent. You have to appoint a treasurer--it is like an income tax form. Malone asked how substantial this change was. He said he was in favor of it. Tillion asked Senator Croft his opinion on this change. Orsini couldn't see why the candidate couldn't sign the reports. Croft said he didn't see any necessity for it. It might be difficult for the candidate to get together with the campaign treasurer. We have a provision that it voids the election if there is anything that is incorrect. One example, would be a false statement. Orsini asked about an accounting error--it wouldn't be a willful false statement. Croft said he meant if they fail to make disclosure. The candidate takes the responsibility for the correctness of the report. Chance said the treasurer should be able to sign the report and get it in the mail. McVeigh said there are cases where the candidate is gone away some where and the reports are transmitted in the mail. Orsini's motion failed.

Orsini moved to amend on page 9, line 14. He said that it seemed to him that when we say "to be" we are talking about the future tense. Sometime 30 days prior to the furnishing of these services the suppliers have to report these things. Banfield said that was right. Orsini said if it is the future tense--that isn't a good provision. That would prevent any last minute insertion of ads. Croft said one was a provision to know who to followup on. The supplier would furnish these services to the candidate. Orsini said you need a couple more ads in the newspaper at the last minute--what then? Croft said this doesn't apply until after the election anyway. On line 6 you are substituting "influence" for the word "furthering". Banfield thought that furthering was the better word.

Orsini said we had talked about the group that was in opposition. With that wording the opposition group--a record would not have to be maintained for those services. McVeigh moved the amendments. Chance objected. Croft asked if we were going to eliminate "furthering". Banfield so moved and asked unanimous consent. There was no objection.

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Orsini said that on page 9--this might be a conceptual thing. There is a question of the summary. It is fairly vague. Anytime that you summarise you have the problem of distorting. This is at the bottom of page 8 and the top of page 9. There is further reference to summaries being prepared. Tillion said he didn't see anything wrong with that. Orsini said it might be after the primary election. It might be a one-sided thing and when they prepare a summary it might be detrimental. Orsini moved on page 8, line 28 to strike within one month the commission shall prepare a summary.

Orsini moved to delete all material after "within" on page 9, line 17 to the top of page 9. Croft thinks that is important. There is some obligation on the part of the commission to prepare this information in a readily understandable form. It is after the primary and the commission will come out with a bipartisan basis and that is what the public will see said Orsini. He didn't think it was a good idea. Tillion said that instead of listing the contributors--they say and this group.... Orsini amended his motion "within one month the commission shall prepare a summary of". Croft suggested that each report shall be made available to the public at cost upon request. Orsini moved his initial amendment. There was no objection.

Croft returned to the amendment on page 7, line 8. Instead of using "furnishing" it should be "contributing". Chance so moved and asked unanimous consent. There was no objection.

Orsini talked about amending page 10, line 17. This ties in with the preceding page. When the violation of the chapter is alleged. Tillion thought this should say when an action is brought. McVeigh asked why. Tillion said this was because you didn't just allege something, you would have had to take legal action. Croft asked if this would be rather than a statement. He said this action shall be brought in the supreme court. Croft didn't think this changed anything. McVeigh didn't think it did either. On line 17 when "an action is brought" instead "of when a violation of this chapter is alleged". Orsini withdrew his amendment.

Orsini felt we should change the language on page 11, line 11. The second "it" starts to get confusing. He suggested changing it to "the commission". Croft said that "it" referred to the chapter. Orsini withdrew his amendment.

Malone suggested a change on page 12, line 6. After the word "is" insert "to influence". He so moved and asked unanimous consent. There was no objection.

McVeigh moved on page 12, line 7 to change "and" to "or". There was no objection to this change.

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There was a question on page 12, lines 16-18. It refers to a group organized for more than one year preceding an election. Croft said that was an attempt to wrestle with bona fide groups or groups that were trying to evade the purposes of the Act. It clarifies which groups are controlled by the candidate or not. Malone suggested that he would like to leave page 12 open and have a little time to check further into this matter.

Randy has a question. All the way through the bill--the way it is written you have been using group in a particular sense and whether the reference is beginning to enlarge and cover both a group and a person. He felt we should consider this aspect. Croft said this is a group as defined by the section. Tillion said that any time you have them forming here ahead of time and endorsing more than one candidate, you could hardly expect it to be under the control of the candidate. Orsini said that earlier he had had a question about not having to state membership, etc. Tillion said that will be covered under--when they are influencing the election they will be considered as contributing.

Chance moved to amend on line 8 by including "dates if available". There was no objection. She had asked unanimous consent.

Croft on page 9--suggests you eliminate on line 5, both "party and committee" It applies only to a candidate or a group. This is because of the way you have defined "group" Chance moved and asked unanimous consent to adopt this amendment. There was no objection.

Malone said he had a question on page 12. Back to the groups not controlled by the candidate. If the group is in existence a year preceding the election and they endorse candidates for more than one office it is presumed not to be controlled by the candidate. They wouldn't operate if the group was controlled by the candidate. Croft said that if you get into a dispute--this says there is a presumption. You could prove otherwise. He said it seemed to him there would have to be a reasonable effort to prevent a candidate being charged with actually controlling a group when most would say he is not. There would be a presumption if the group has been in operation for more than a year. McVeigh said there are groups that exist for purposes of life insurance, for example, you can't do this to get group insurance. You can get group insurance for a group that has other purposes. Malone said you could prove the contrary, but his question was answered.

Chance moved that the bill as amended be put out of committee. She asked unanimous consent. Orsini objected for the purpose of going through pages 1-5. SB 388

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Orsini has the basic question on the formation of the commission. One of the things that was talked about was having the parties basically form the commission. This would be unfair to the parties. The initiative does this. It seemed to him that 2/3, under the initiative, of partisan people which is a greater number than --the initiative doesn't seem to see that as a problem.

Orsini moved that the commission be formed of six names submitted by each of the major political parties--the governor will select three each from these and the majority of the commission will select the seventh person. McVeigh objected. Motion failed.

Malone said there was a question that came up. This was about the appointing power. Maybe the court system didn't want to get involved. Tillion said there was a problem of involving the court in legislative matters. Croft agreed with this point. He said they do seem to do this, though. They are involved in the selection of judges and the judicial council participates in this. Chance said that as a practical matter it is the Chief Justice that is named here. If there were a court case he would have to disqualify himself. Croft said that the court has rule making power. You can challenge a rule in the court.

Orsini suggests on page 1 that instead of who may not be a member of the same political party change this to "one from each major political party." On a vote on the motion Tillion, Banfield and Orsini voted Yes. Malone, Chance and McVeigh voted No. Motion failed.

Malone on page 2, line 14, paragraph (f). The second sentence--a vacancy. What that means is that a quorum of three could exercise all the powers of the commission. Croft said that doesn't mean an absence. Malone said that as a practical matter so the commission could go about their business--this was for a bare quorum. What if they voted on something and the vote was 3-2, would it carry. Tillion said it would.

Page 2, Orsini suggested on line 19 that we change "30" to "15". Chance objected. By this you will tighten the time periods. If you have somebody missing for a month it is a significant time period. Malone said it would be a death or a very serious illness. His motion failed.

Orsini on page 3, line 13. (5). This deals with the question of summaries. We should deal with it here, also.

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He suggested that we delete the words "a summary of" and make it consistent. Randy said we still have a summary under (10). He said we still need the summary of the groups. Croft commented on page 9, lines 17-19. Malone moved to delete a summary on page 3, line 13. Chance objects. Banfield asked what was the purpose of the summary. Croft said in the larger campaigns the information may be overwhelming. Like in the primary, unless you can group it. In section 110 that might be easily solved--you might want to add all summarizing should be so that all candidates are treated in the same manner. This is what was implied. It might be preferable to eliminating the summary. Orsini said he would accept that. Tillion asked where you could add this. Croft said to add it at the bottom of page 8. Malone thought this was a good idea. Proper wording will be prepared.

Orsini had further amendment on page 3, line 18. He asked about the "60" days. Why 60 days? Croft said they felt that the commission should have a time frame in which to prepare the report. This was to force the commission to make the report within that time period. They need a period of time to investigate and they don't get some of the material until 30 days after the election. Therefore, this seems to be the minimum time that could be required. Orsini said the report could be detrimental to the candidate and they would have only a few days in which to reply. Tillion said he felt it would take that long to prepare a report. Orsini moves to change this to "40" instead of "60". Banfield called the question and the motion failed.

Malone asked if there was some way to change the language to reflect the intent or purpose of the report. The report is to report violations to the AG. Couldn't we say that? As to reporting violations, Orsini suggested that subparagraph 8 be amended by adding "immediately" on line 22 between the words "to" and "report". Tillion thought it would be better placed in (7). It should say as soon as possible but no more than 60 days. After the word "within" insert "as soon as but no more than". He moved and asked unanimous consent. This is on line 18. After further discussion this motion was withdrawn.

Page 4, lines 6 and 7. Orsini said this was housekeeping amendment and deals with "equal to or". We are talking about contributors who contribute in excess of $100. This says equal to. Banfield said this was to cover the in-kind contribution. McVeigh said that equal did not refer to the amount of money. Croft said he didn't have any objection to the amendment. Orsini so moved and asked unanimous consent. There was no objection.

Orsini wanted to amend on page 5, line 20. He wanted to add the words "within 48 hours of appointment". He suggested this because there is no time limit. Croft

doesn't see this as being necessary. Orsini withdrew his motion.

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In the following section, Orsini did not think this was constitutional. Randy said the intent was to apply to groups as well as "a person". Croft agreed with this. This is in the statutory sense. Randy noted that a group is spending it themselves. Is a group not controlled by a candidate subject to this limitation? Croft said No. Banfield asked if this included contributing in kind? Croft said it did. It does this under the definition of contribution.

Orsini moves to strike "no person" on page 5. Chance objection. Motion failed.

Croft returned to the change at the bottom of page 8 and top of page 9. You could reinsert what has been deleted and add at the end of line 2 on page 9 - "each summary should establish a category of reporting which shall be uniform either for each office or for all candidates--whichever way you want to say it. Fran suggested that we say "shall utilize uniform categories for reporting". Orsini moved and asked unanimous consent for that amendment. There was no objection. Tillion said we would have to have a Judiciary CS after drafting all these changes. Chance moved and asked unanimous consent for a CS to be drawn and the Judiciary CS be reported out with a "Do Pass" recommendation. Orsini objected. All signed "Do Pass" except Orsini who signed "No rec".

Seals of Court

Tillion brought up HB 811 - Seals of Court. McVeigh didn't see what difference it makes what the seal says. Randy said there are statutes that set up the seals for each level of court. When they go into the service areas they have problems. Malone moved and asked unanimous to report out HB 811 with a "Do Pass" recommendation. The bill was signed out. Tillion, Malone, Chance, McVeigh and Banfield signed "Do Pass"; Orsini signed "No rec".

HB 811

Meeting adjourned at 6:00 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
March 27, 1974

Chairman Tillion called the meeting to order in Room 104 of the Assembly Apartments at 3:12 p.m. Present were Tillion, Malone, Banfield, McVeigh, and Berry.

Unfair trade practices

HB 543

The first item of discussion was HB 543 - Unfair trade practices and consumer protection. Tillion asked the committee's opinion on this bill. Malone asked him to give some of his opinions gained from work on this bill in the Commerce Committee. Malone asked also to have someone from the AG's office appear before the committee to testify on this bill.

Tillion said the main presentation was made by Stan Howitt and one of the biggest problems they have had is how to get ahold of people that come through the state with various schemes. One was a special water-proofing truck. By the time it was proven not to be waterproof, they had already left the state. This was a spray covering of plastic and it was a cutrate. They worked their way up to Fairbanks and then to Tok. By that time some of the plastic was already peeling. There wasn't anything you could do to them. Another was people selling subdivisions. They advertise what they are like and maybe only one will be that way. Some of these are "outside". They may advertise a view lot when you investigate you find that maybe only one has a good view.

Tillion said this also covers pyramid sales. This probably would stop Tupperware. He said the ones that are bad like cosmetics, would be covered under this bill.

Malone said there was also the problem with a franchise. You are sold a franchise and the first thing you know, everybody ends up with a franchise. Then you have no market. That leaves you caught with all the stock. People would have to be stupid to do this, but Tillion says they still do it.

Mr. Don Dickey was present at the Commerce Committee hearings. He said the understanding is that when the bill was enacted that Commerce had part of it and the rest in the AG's office. They had to duplicate the investigative work. With the start of the pipeline the practices will increase. He felt this legislation was of value. Apparently Mr. Mike Thomas, an attorney for the insurance people, was affected and he said they were covered under some of the other statutes. Pyramiding of sales was the other thing.

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Tillion said a person has to be looking for an easy deal but it is usually the housewife who is the one that gets caught in this. McVeigh asked about page 2, line 10. That means if you are selling powersaws in the NC Co. and you have a sale on you have to state the number you have for sale at that price. Tillion said if you are a supply house and you run a special. Maybe you have only two or three of these. It is a slick trick to pull the people in to your store. Banfield said that grocery stores have sales like this and they don't anticipate the run on a particular item. They didn't intend to run out--what happens to them? Tillion said the bill shows that you have to have intent. She said she hoped people understood that before they made their complaints. Malone said they (the merchants) could say "while the stock lasts". This could apply to goods or appliances--then there is a cut off. No intent to not provide the services. Some places just like to dump stock and have no intent to provide services. This is different. Like on appliances--if the merchant is not going to provide service for such appliances--then the public should know they before they buy.

McVeigh asked about the penalty. Tillion said it was in 3 and 4 and must be in existing law. Randy said section (a) of this bill gives them for violation of 471. He will check the statutes for the other.

Mr. Dickey, Chamber of Commerce, thought it was on page 5. It is in the new bill but not in the old one. Mc Veigh was looking at the wrong bill. Banfield asked if there was anything in here that a legitimate businessman could complain about. She also wanted to know if this included magazine salesmen that travel through the country. Tillion said that is prohibited here in the bill. There was discussion about the changes in this bill as opposed to the Commerce Committee substitute.

Malone asked about page 3, lines 18-24. What is the practical effect of that? Banfield said that it made chain referral sales plans as defined in the original bill illegal. Tillion said that was right. This included all major distributors making a discount contingent on past performance but doesn't allow that for future sales. McVeigh asked what this did. Tillion said they try to get you to sign a promissory note--everyone in the community ends up having a distributorship.

Banfield said she couldn't see where this did anything about pyramiding. McVeigh felt as if this would cover pyramiding. There is a big scheme in Florida. Tillion said that was COSCOM. Tillion said that Stan Howitt says

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this controls it. The discount is based on past performance then people can't get in over their head. Malone asked why this language was changed from the original bill. Banfield asked if this was Stan Howitt's amendment. Tillion said it was. Tillion said the committee (Commerce) asked that Stan Howitt bring back language so it would be clearer. The AG's office wrote it up. If you use a sales referral plan--this explains it more. McVeigh said it says that if a guy comes to your door now--says he is going to sell you this item which costs $100--then he says he will give it to you if you give him the names of your neighbors to whom he can sell this product. Tillion continued on this--and for every person who signs we will drop your price by such and such a percentage.

Banfield said she was concerned about the person who buys a distributorship and think they have their own territory. She couldn't see where it took care of that. Malone said that was covered in number (20). McVeigh said that you get these salesmen going from door to door selling say Singer Sewing Machines. If you will give me the name of someone else--they will make you a good deal.

Miss O'Connell from the AG's office arrived to testify. On page 3, line 18--she said this was a compromise on the definition. It was more extensive in the original bill. We believe that this statute addition will generally cover this as well as the other one did.

McVeigh asked what this meant in a true-to-life situation. Miss O'Connell said that there is a chain type referral the seller of a product says, OK, we will sell you this but we can get you a rebate if you get some of your neighbors to buy this product in the future. They might also say if you give us the names of other people who will buy, we will give you the rebate. What usually happens is that the person can't find any referrals. They have lead the person to believe that the purchase price will be taken care of by this system. This is similar to pyramiding sales plans. The only difference is that this is referrals to other people.

Malone commented on a person selling sewing machines. They sell them to three or four people and say to them "If you get us some referrals a percentage of the cost is knocked off". The next group of people try to do the same thing. After the second or third person down the line--it is not a good deal any more. McVeigh said these last people might not know of any previous sales and they get stuck. Banfield asked about if the salesman says to give him the name of two people and then he would give them a lower price. McVeigh read from the bill showing it has to be a contract. He asked Randy to explain the definition of chain distribution schemes. This is on page 6, lines 8-11.

Miss O'Connell said these are difficult because they have been developed to cover this particular item.

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Individuals are solicited to buy a position in a company--they invest a large amount of money for the ability to perpetuate the chain. The limitation is the number of persons that participate. The company says they are going to limit it to a certain number of positions. Randy said that the bill said they would limit--but it doesn't say what they will limit. Miss O'Connell said there must be something missing here. She said it should say a limitation to the number of people who participate or any other conditions that do not keep this from being a chain distributor scheme.

What we are saying is that this will not exempt them from being a chain distributor. McVeigh said it was not complete because the phrase was hanging out there without a verb. Miss O'Connell said she would have to go back to her office and get the words for this. Bowman said he had the same information that she did. Tillion said that the definition was added in Commerce. This was taken from Wards or Sears, etc. Randy said he thought that a line had been left out. Miss O'Connell said that was right. When this was typed they dropped one line. This is between "receipt of" and "distributor scheme". Tillion suggested adding "profits therefrom" and it wouldn't change the idea of the chains as a distributor scheme. McVeigh thinks the "As" should be the beginning of a new sentence. O'Connell objected because the drafting manual says it has to be drafted this way. Banfield moved and asked unanimous for the adoption of her amendment. It was adopted.

Tillion asked Miss O'Connell to give a presentation on the changes made from the original governor's bill. She said that in the definitions there was some change in the wording. Another change was the repeal of the exemption provision. This is extremely vague. This was a compromise to make it more specific on Page 4, lines 8 and 9. O'Connell said that the first three lines of section 2, (1) was the basic original section that they wanted to have repealed. In an attempt to work out a compromise the second two underlined lines portions would make it more specific so that we were not completely left up in the air as to when the statute applies. This was brought up by the insurance department.

Page 5 of the CS, line 24--this makes it a misdemeanor in addition to the fine. This was suggested by the state troopers. This would make enforcement of the act more effective. This would be especially true in fly-by-night ventures so they won't leave the jurisdiction.

We have already discussed chain distributorship and the definition of chain referral with the new language.

HB 543

Malone had a question on Page 4 of the CS, lines 4-9. Under the existing law 45.50.481 what are the exemptions to 461 and 471. What is the effect of the new language?

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O'Connell said that the first three lines are very vague. They leave us with massive laws and the statement that if this act or transaction is permitted under those laws then we can't go in and operate there. This is up for interpretation. Lines 8 and 9 attempt to clarify that we are dealing with these specific practices. The insurance codes and bank codes cover some of these and weren't going into these. It is still somewhat vague. We thought it was a good compromise. Tillion asked what change needed to be made. She said they just needed to repeal it. That would bring the insurance department back under it. Tillion asked if this was a necessary part of the bill. Randy suggested that on Line 5 delete "permitted" and say instead "regulated". Otherwise you have an internal conflict. This change was adopted. He said he thought the things we were talking about were under some other regulatory scheme. Malone asked if he meant the way it reads now. O'Connell said that was right. Randy asked O'Connell if that would accomplish her purpose. She said that it would. Malone said this would make it so that an act or transaction covered under regulatory boards or commissions are exempt unless the law declares the practice under 471 illegal. Randy asked if there was anything in sections 471 to 561 that applied to the insurance department. Tillion said we were only letting out the insurance industry. McVeigh added that this was exempting language. Bowman said he felt that the banking industry also was excluded. They weren't quite sure that they were exempt so this was the added language they wanted.

McVeigh said we were saying in effect that if there are practices declared unlawful under 471 of this chapter--all transactions are covered except those transactions which are covered by other regulatory sections of the Act. Berry said that what it said literally was that this bill does not apply to an act permitted by another law unless that act were specifically permitted. Emmitt L. Wilson, Commissioner of the Department of Commerce, felt that the word "permitted" should be changed to "regulated" --it makes more sense. He said that was the reason he came to the meeting today. He said initially we use the word "permitted" and if it is going to be regulated under the department it has to be "regulated". Mr. Don Koch said that this amendment would have to be made in two places. Berry said that it would read: Nothing in sections 471-561 of this chapter applies to an act or transaction regulated under laws administered by the state unless the law regulating the act doesn't prohibit the act. McVeigh moved and asked unanimous consent for the adoption of this amendment.

Mr. Don Dickey asked if this will require a transfer from the Department of Commerce to the AG's office. O'Connell said they had put in for the increased manpower for that particular item in the budget. HB 543

Unfair trade practices

Tillion said there would have to be a CS for HB 543. Banfield moved and asked unanimous consent to prepare a CS and to sign it out "Do Pass" today. Tillion, Malone, Banfield, and McVeigh signed "Do Pass" on CSHB 543. Orsini signed "No rec". (Orsini arrived at 4:00 p.m.)

Platting powers of municip.

HB 445 - Platting powers of municipalities. This is the second CS that the Judiciary Committee has prepared. Banfield said she thought that if the municipality wasn't going to provide open spaces or parks they couldn't take any of the land. Malone said he thought we left it up to the municipality to deal with by ordinance. Banfield asked how this was going to be accomplished and how could you make the municipalities do this. Malone said he thought the laws would have to be enforced. Orsini moved and asked unanimous consent to adopt the second CS for HB 445. There was no objection. Orsini moved and asked unanimous consent for "Do Pass" on 2d CSHB 445. Tillion, Malone, Orsini, and McVeigh signed "Do Pass"; Banfield signed "No rec". HB 445

Revisor of statutes bill

HB 817 - Corrective amendments to the Alaska Statutes as recommended by the revisor of statutes. Randy said that a lot of the changes were citations or minor wording changes. There are two or three areas where the changes were made due to court decisions. HB 817

Randy said that AS 12 was to be amended so that you have one place in Title I dealing with general provisions that cover the whole book of statutes. Then it would be clearly stated that if you cite a person under one statute it includes any amendments that have been made unless it is specifically stated that it does not include any changes. Unless you freeze the point when you refer to the citation it continues to carry that way even if there are amendments made to it at a later date.

He said since there are only first and second class cities now we don't say cities of "any class". There are provisions also made that removed requirements that a person be a citizen of the United States for licensing of various occupational licensing. This is in Title 08. You have had to be a citizen to be able to take an examination for a license. This new language removes that requirement. This is because you cannot discriminate against resident aliens.

HB 817

Revisor of statutes bill

Malone said that he was interested in sections 3 and 4 about occupational licensing. This removes the requirement that certified public accountants have to be citizens in order to be licensed. Randy said they would still have to be a resident of the state. Tillion said there was a similar with Fish and Game where you have to have lived here 12 months, but you don't have to be a citizen. The person can be a citizen for everything but voting. Randy listed those that were not covered under this. He took this provision out of five sections since this was a United States Supreme Court decision.

McVeigh commented on these sections. AS 08.04.110(1) says citizen of the United States or declared your intention of becoming a citizen. He asked if Randy was repealing that under accountants. Randy said that these people could become accountants if they weren't even a citizen. You cannot discriminate against resident aliens. Tillion said that we no longer require the declaration of intent papers. You come over here now and take out the papers and when you have lived here for three years, you can apply for your citizenship after which you take the test. Randy said this didn't relax any of the standards or requirements for the examination.

McVeigh asked if the court ruled that you can't discriminate against the resident alien. McVeigh asked if we had three categories: citizen, alien, and the resident alien? Berry said we also have the resident alien who has not declared his intention to become a citizen. That is what we are deleting. Tillion said this is no longer a requirement of federal law.

Randy continued through his section by section analysis as outlined in his memo. This will be filed with the minutes.

Section 5. Deletes the date in section 5.

Sections 6 and 7. Substantial changes in the statute on admission requirements to the bar. The Supreme Court issued new rules for admission to the bar last June. In the case that came out after that their standards superseded the statutes because they can license attorneys.

Section 8. Same as above--to change to court decision. You cannot suspend a member without a hearing--for failure to pay dues. This case was because the applicant had applied for inactive status thereby refusing to pay the active dues. Under the bar rules you are not required to do this. They disbarred this individual for nonpayment of dues without a hearing.

Section 9. There is a conflict in contract licensing and the insurance code. The code provides that the Director of Insurance is the agent for service for out of state insurers. You can serve the papers on the Director and he will forward the papers. This would provide if you had

a claim against a contractor's bond you would serve the Commissioner of Commerce but did not provide for the $5 fee. This is an attempt to make the two consistent. It was an administrative problem for them. (Sec. 10 is with 3 and 4)

Revisor of statutes bill

Section 11. This is a definition of persons handling explosives. The old law said persons employed in mines. That has been repealed and this is a definition in almost every respect the same. Tillion said this is broader. Mines and mining operations are two different things. This deletes having to have an explosive handlers permit because there are separate regulations that cover this--the safety standards of the state have to be met and these are under the Department of Natural Resources.

Section 12. There was an omission in the drafting of this legislation. It was just an oversight. It omitted a "Class A Guide".

Section 13. This is an exemption under the medical licensing act. If you had a permit for isolated areas--they no longer have isolated areas. This is clean up language.

Sections 14 and 15. This relates to opticians. This is necessary to remove a conflict. (Sec. 16 with 3 and 4) (Sec. 17 is also with sec. 3 and 4.)

Sections 18, 19, and 20. This is a change in terminology. An act was passed last session that when a policeman stops a person for a misdemeanor instead of arresting them he would give them a citation and they have five days to appear. That act used the term arrest and there is a court rule that deals with this. The statute didn't say it was amending the court rules. Randy said he changed the terminology to clear that up. This deletes the term "arrest".

Section 21. This is a language change to conform to the municipal code.

Section 22. This changes "state police" to state troopers. It is a language update.

Section 23. This is a language change. This corrects reference to the department responsible for the issuance of vouchers from Revenue to Administration.

Section 24. This is a language change. Covers initial terms of office for those appointed to the Board of Fish and Game. All initial appointments have been made so this language is no longer necessary.

Section 25. This is a duplication. This is already taken care of in the general penalty provision.

Revisor of statutes bill

Section 26. This is a residency change for aliens for purposes of the Fish and Game Code. This is for aliens who reside here--one year is required as for anyone else. Instead of the three years and this is in line with the Supreme Court ruling regarding resident aliens.

This term was longer for aliens than for anyone else and you can't require that. Tillion noted that many Norwegians stayed in Petersburg and they had a problem with this. Malone noted that on Page 8, line 11, it was necessary to change "years" to "year" since we reduced the time from three to one.

Section 27. This prohibits the use of fishtraps. Additional sections were added on this subject but they failed to repeal the law they were replacing.

Section 28. This was a change in the reporting date. This was because the session would not be convened by January 15, 1975, so we changed the date. Malone asked if this was a report by the Alaska Commercial Fisheries Entry Commission. Randy said they were to provide alternative methods of transferability. Tillion felt that it was unnecessary to change this because it will be dead in a little while. McVeigh asked why they would change this. Berry said because the Legislature wouldn't be in session. Banfield moved and asked unanimous consent to delete that section from the bill. There was no objection. Malone said if it is still in the law we might get the report before the session starts.

Section 29. This deals with the Pacific Marine Fisheries Compact and the entry of additional states. Any state that has rivers that drain into the Pacific--these are the ones referred to. The states covered are listed but Article XII of the compact provides for other states in addition to those that are listed. Therefore this seems unnecessary. Malone thought that instead of that that we could just add Idaho.

Section 30. This gives the membership in the Comprehensive Health Advisory Council. It says there are three members and without any break it lists four people. The last person sits in an advisory position so Randy changed this to include this position.

Section 31. There was a ambiguity here. This deletes "its" and adds "the department".

Section 32. This is a change to more simple language.

Section 33. This deletes reference to "writs of mandamus" since that term is no longer used.

Section 34. This relates to the payment for overtime. This is an exemption. This is for administrative and

professional people.

Revisor of statutes bill

Section 35. This change was to simplify and clarify the definition of occupation. It deletes some unnecessary language.

HB 817

Section 36. This removes a conflict. There was a law passed last year on driver improvement interviews. There was a conflict between the section set out and section 285 which is part of the same act. In one section it said the decision takes place immediately and another section said it didn't take effect until after a hearing.

Section 37. The old abandoned vehicle act was replaced with a new statute but the old one wasn't repealed at the time. This will correct the situation.

Section 38. Deletes a provision which requires municipalities to file report on long term debts. There was a repealer on local affairs and the reporting procedure was deleted. The municipalities didn't pick this up when they changed.

Section 39. Deleted a citation.

Section 40. This is an update on a citation. This relates to preference rights under natural resources.

Section 41. This updates citations on the state geologist.

Section 42. This is a change in the short title to delete the date reference.

Section 43. This adds commissioner and employees of the Alaska Commercial Fisheries Entry Commission to the list of positions in the exempt service. Banfield asked if this was because it was in the Governor's office. Berry said that the Act itself made them exempt. This is just a listing of those that are exempt. At the time the legislation passed they were added to the list.

Section 44. This is a change in terminology.

Section 45. This is a language change to conform to the municipal code.

Sections 46 and 47. This pins the regulations down on state aid to local governments.

Section 48. This was a clerical error. Changes it back to the 1973 definition of "costs of school construction". There was no clear intent on the part of the legislature to change this definition so Randy returned it to the original.

Section 49. This refers to penalties for income tax violations. It provides for the addition of the cost of prosecution to the cost of the action if ordered by the Supreme Court.

Revisor of statutes bill

Section 50. This is a section that relates to the price and sale of the Alaska Administrative Register and this is no longer necessary because it is done publicly now.

Section 51. This says that the Department of Public Works must provide rules for use of automobiles and the Department of Highways has most of the state-owned automobiles. This transfers the responsibility to them. Malone asked what does 44.68 do? There are four sections on unauthorized use of state vehicles. He wanted to know why vehicles was made a function of a line department and not administration. Berry said because Highways have a lot of vehicles. He said that maybe it should be by executive order that we transfer this out of Public Works into Highways and the subsequent action that transfers this function to Highways--this is just to make it consistent. This probably should be done, but not in the revisor's statute. Malone agreed with that.

Sections 52 and 53. There was a change last year in the federal food stamp definitions and this is made to conform. McVeigh said this included changes in what could be purchased with the food stamps. Now you can buy jackets, clothing, imported meats, and other types of imported foods. He said he didn't have any objection to following the federal regulations. This also includes hunting and fishing equipment, but not guns. Berry said this was a special provision that applied only to Alaska. McVeigh said they deleted the prohibition of purchasing imported foods for everyone.

Randy said there were a few additional changes suggested by Arthur Peterson and they can be added to this bill. Banfield asked if we were going to include them with this. Berry wanted to add them as an amendment or a CS. This would add new sections so that they would fit at the end of the bill. He said he would prepare an addendum to his memo to explain the changes.

Malone asked about the proposed changes. Section 54--"municipality" means--Randy said this was an old definition under the Aeronautics Act. It will be exactly as the municipality in 29 in the Code rather than having two definitions. Malone said if it was the same as in the Code he would be willing to leave it as is.

Malone moved to adopt the amendments as recommended by Art Peterson--Sections 54-57 as shown on the sheet.

Berry said that Section 56 was to make it consistent with the rest of the bill.

Section 57. This is a change in terminology.

HB 817

Banfield moved and asked unanimous consent to move this bill out with the amendments. It was signed "Do Pass" by Tillion, Banfield, Malone, Orsini and McVeigh.

Sponsor of statutes bill

Gambling

HB 801 - Gambling. This is one of Jamie Love's bills. McVeigh said he was against it because it is so vague. It refers to extending credit for gambling. He said he didn't know what it meant to guarantee or extend credit. He said we have a lot of oldtimers who borrow a stake from the house. If anyone did this, it would make them guilty of a felony. He requested to put this bill over until tomorrow because he wants to get some excerpts from the Judge Wickersham decision. HB 801 will be held over until tomorrow.

HB 801

Introduction of bills

HB 746 - Introduction of bills by members of the legislature. Orsini moved to table this bill.

HB 746

Taking of antlerless moose

HB 532 - Taking of antlerless moose. Tillion asked how many were in favor of moving this bill out of committee. Tillion, Malone, McVeigh and Banfield signed "Do Pass"; Orsini signed "No rec".

HB 532

Requesting amendment to US Housing Act

HJR 79 - Requesting amendment of the United States Housing Act of 1937 to exempt Alaska from the "utility" requirements of the "Brook Amendment". Malone moved and asked unanimous consent to report this resolution out with a "Do Pass" recommendation. There was no objection and Tillion, Malone, Orsini and McVeigh signed "Do Pass".

HJR 79

Penalties for sale of drugs

Tillion suggested that the committee substitute HB 104 for SB 15 dealing with penalties for sale of drugs. This allows for civil commitment for addicts. We discussed this in our law and order sessions. McVeigh wanted to check the federal program. This was the Narcotics Rehabilitation Act of 1962, a federal act. He said a person comes into the US attorney's office and certifies that he is an addict. The judge makes him eligible to go to Texas, Leavenworth, or some other place but the recidivism rate was very very high. The program fell into disarray. This would start us on a civil confinement for rehabilitative treatment on our own.

HB 104
SB 15

Tillion said Jamie raised a question on this. If you have a commitment that has no time limit for the criminally insane---you can give him something far better than that. If he wants to participate in the halfway house--at least you are doing something. The civil commitment works better. You also don't have a jury expense. McVeigh said there is a possibility that someone not in the criminal element will say, "I have gone as far as I can go" and they really want help. So they get themselves civilly committed for treatment.

HB 10

S 5

Penalties for sale of drugs

Tillion said that on the front page of this it toughens it down on the pusher part. That is according to those involved in it. McVeigh said this isn't mandatory. Tillion said that it was parolable but not until the minimum prison sentence is served. Nobody seems to object to this for the hard narcotics. Banfield said they don't catch any of these people anyway. Tillion said they caught about 12 last year. McVeigh wants to continue discussion on this tomorrow.

Meeting adjourned at 5:20 p.m.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

March 23, 1974

M E M O R A N D U M

TO: Legislative Council

FROM: Randolph Berry, Revisor of Statutes

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes."

This bill was prepared by the Revisor of Statutes under AS 01.05.-036. The proposed amendments are designed to accomplish the following purposes: (1) correction of citations; (2) correction or change in language due to court decisions; (3) cleanup to make provisions consistent with other law or to recognize more recently enacted law; and (4) miscellaneous clarification and correction.

It is suggested that this explanatory memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 adds language intended to simplify citations and make it clear that unless a citation specifically refers to a statute or Act as it existed on a particular date, the citation includes amendments or reenactments of the statute cited.

Section 2 seeks to make the terminology of AS 04.10.139 consistent with that in the Alaska municipal law (AS 29).

Sections 3, 4, 10, 16 and 17 attempt to repeal or amend the qualification requirements for occupational licensing based on citizenship or intention to become a citizen for various businesses and professions to conform to the decision by the United States Supreme Court in In Re Griffiths, 413 U.S. 717, 37 L.ed 2d 910, ___ S.Ct. ___ (1973). In that case the court held that a Connecticut statute which denied admission to the state bar to a resident alien who had not declared an intention to become a citizen violated the equal protection clause of the Fourteenth Amendment by discriminating against resident aliens.

Section 5 deletes the date reference in the short title of AS 08.04 because date references of this nature are unnecessary and tend to cause confusion in later years, particularly if amendments have been subsequently enacted.

Sections 6 and 7 rewrite the admission requirements of the Alaska Bar, both for persons applying to take the regular bar examination and attorney applicants applying to take the attorney examination, to conform to the new Alaska Bar Rule on eligibility for admission (Part 1, Rule II of the Alaska Bar Rules) promulgated by the Alaska Supreme Court on June 8, 1973 and the holding of the court in In re Stephenson, 511 P. 2d 136 (Alaska 1973) that the court has inherent and final power and authority to determine the standards for admission to the practice of law in Alaska. The reference to the requirement that a resident alien intend to become a citizen of the United States has been removed from AS 08.08.130 to conform to my interpretation of In Re Griffiths, (supra), although the requirement remains in Part I, Rule 2, Section 1(e) of the Alaska Bar Rules.

Section 8 adds additional language to AS 08.08.180 to bring that section into conformity with the decision of the Alaska Supreme Court in In re Petition of Crosby, 495 P. 2d 1270 (1972) which held that if the non-payment of dues involved a question of or challenge to the board's authority to compel the payment of the dues sought, then a hearing was necessary to comply with procedural due process.

Section 9 seeks to remedy a practical problem resulting from contradictory requirements as to service between AS 08.18.081(a) and AS 21.09.180 - 21.09.190. AS 21.09.180 - 21.09.190 make the director of the division of insurance agent for the service of process on insurers, and the exclusive agent for service in the case of foreign insurers, and require the payment of a $5 fee. AS 08.18.081 provides that persons bringing an action against a contractor on his bond shall serve the commissioner of commerce, who shall transmit the complaint to the insurer. (In the case of foreign insurers, the complaint would be transmitted to the director of the division of insurance, in accordance with AS 21.09.180, but the $5 required by AS 21.09.190 would not have been collected.)

Section 11. The definition of "mines" cited in AS 08.52.070 was repealed in 1963. The terminology of that definition was carried over in substantially the same form as a definition of "mining operations". (See ch. 75 SLA 1963.)

Section 12 inserts a word which was apparently omitted in this section in the original version of the bill (HB 1) which became ch. 17 SLA 1973. The word is necessary to make the terminology of AS 08.54.190(b) consistent with the remainder of AS 08.54.

Section 13 repeals a provision relating to physicians providing care by authority of permits for isolated areas. The section

providing for the issuance of permits for isolated areas (AS 08.-64.368) was repealed in 1970 (see sec. 27 ch. 148 SLA 1970).

Sections 14 and 15 insert additional language in AS 08.71.080 and 08.71.090 (relating to the licensing of dispensing opticians) to remove a conflict with AS 08.71.150 which provides for issuance of licenses without examination to applicants who have been licensed and practicing or a dispensing optician in another state.

Sections 18, 19, and 20 change the terminology of AS 12.25.150, 12.25.180 and 12.25.190 to avoid a potential conflict through the use of the term "arrest" with Rule 5 of the Rules of Criminal Procedure, which provides specific procedures and time limits for appearance before a magistrate after arrest.

Section 21 changes the terminology of AS 14!25.220(5) to conform with current terminology found in AS 14.12 and in Alaska municipal law (AS 29).

Section 22 updates an archaic reference to state police.

Section 23 corrects the reference to the department responsible for the issuance of vouchers from Revenue to Administration to conform to AS 37.

Section 24 deletes language describing the initial terms of members appointed to the Board of Fish and Game, as this language is no longer necessary.

Section 25 repeals a penalty provision (AS 16.05.700) which is duplicated by a general penalty provision (AS 16.05.720) appearing in the same article of the Fish and Game Code (AS 16.05).

Section 26 changes the time period for establishment of residency (for purposes of the Fish and Game Code, AS 16.05) by aliens maintaining a permanent place of abode in the state to make it consistent with the one year required of other persons residing in the state. This change appears to be necessary to conform to the decisions of the Supreme Court in Takahaski v. Fish and Game Commission, 334 U.S. 410, 92 L.ed 1478, 68 S.Ct. 1138 (1948) and Graham v. Richardson, 403 U.S. 365, 29 L.ed 2d 910, 91 S.Ct. 1841 (1971). In Takahashi the court restricted the "special public interest" doctrine in the area of fish and game laws which discriminated against aliens, and in Graham v. Richardson the court invalidated statutes which established a differential residency requirement for aliens as being a violation of the equal protection clause of the Fourteenth Amendment.

Section 27 deletes a provision (AS 16.10.060, prohibiting the use of fish traps) which is unnecessary since the passage of ch. 17 SLA 1959, as amended by ch. 95 SLA 1959 (AS 16.10.070 - 16.10.110, prohibiting and establishing penalties for the use of fish traps).

Section 28 changes the date for the submission of the report of the Alaska Commercial Fisheries Entry Commission. This change seems necessary in view of ch. 8 SLA 1973 changing the date of the convening of the legislature to the third rather than the second Monday of January.

Section 29 deletes the reference to specific states in AS 16.45.010 (governor's power to enter into the Pacific Marine Fisheries Compact) as this reference seems unnecessary in view of the language of the compact itself (AS 16.45.020). Article XII of the compact provides for other states in addition to those listed in AS 16.45.010 to become compacting states.

Section 30 makes a change in the language and punctuation of the provision (AS 18.07.030(b), membership of the Comprehensive Health Advisory Council) to correct an apparent internal conflict in the language of the provision, which states that there are three governmental members and lists four persons. The change is intended to make it clear that the representative of the health care service and delivery agencies of the armed forces sitting in an advisory capacity is not counted as one of the governmental members.

Section 31 changes the terminology of a provision of AS 18.07.080 (functions and duties of the Comprehensive Health Advisory Council) to clarify an ambiguity. Reading AS 18.07.080(1) in conjunction with AS 18.07.090 seems to require this interpretation.

Section 32 updates the terminology of the provision describing the terms of office of board members of the Alaska State Housing Authority, as the reference to the year of initial appointment of each member is no longer necessary.

Section 33 deletes the reference to "writ of mandamus" as writs of mandamus are abolished by Rule 91(b) of the Rules of Civil Procedure.

Section 34. This section repeals a provision exempting persons employed as outside salesmen or in an executive, administrative or professional capacity from the coverage of AS 23.10.060 (payment for overtime) as the categories of persons are exempted under AS 23.10.055(9) from the entire Wage and Hour Act (AS 23.10.050 - 23.10.150).

Section 35 deletes unnecessary language in order to simplify and clarify the definition of occupation.

Section 36 removes a conflict between AS 28.15.285(b) and AS 28.15.288 as to the time the decision of the Department of Public Safety following a driver improvement interview becomes effective. AS 28.15.285(b) generally provides that the decision is effective upon receipt of the notice; AS 28.15.288 specifically provides that a decision by the department suspending or revoking a person's driving privilege does not take effect pending a hearing or subsequent appeal.

Section 37. Ch. 81 SLA 1973 enacted AS 28.31 (abandoned motor vehicles), which replaces AS 28.30. The repealer of AS 28.30 was apparently inadvertently omitted when the bill which enacted AS 28.31 was introduced.

Section 38 deletes a provision requiring municipalities to file reports relating to long-term debt as provided in AS 44.19.205. AS 44.19.205 (powers and duties of the Local Affairs Agency) was repealed by ch. 200 SLA 1972, which created the Department of Community and Regional Affairs. No provision comparable to AS 44.19.205(1) (requiring reports of local government debt) is found in AS 44.47 (Department of Community and Regional Affairs).

Section 39 deletes a citation. AS 38.35.120(7) was repealed when AS 38.35.120 was repealed and re-enacted by ch. 3 FSSLA 1973. No comparable provision appears in the new version of AS 38.35.120.

Section 40 updates a citation to include a later enacted provision of the same category as those cited.

Section 41 updates citations to provisions relating to the state geologist.

Section 42 deletes the date reference in the short title of AS 38.05.181 for the same reason as sec. 5.

Section 43 adds "commissioners and employees of the Alaska Commercial Fisheries Entry Commission" to the list of positions in the exempt service. These positions were established as exempt by AS 16.43.060 and 16.43.080, and this section is intended merely to keep the listing in AS 39.25.110 current.

Section 44 corrects the reference to the "section of weights and measures" as there is not a division of weights and measures.

Section 45 removes the unnecessary "organized" from in front of "municipality".

Sections 46 and 47. These sections make the citations to the provisions dealing with state aid to local governments for miscellaneous municipal purposes more specific so as to avoid conflict with other sections in AS 43.18.

Section 48. This section returns the definition of "costs of school construction" to its original language prior to ch. 28 SLA 1973. Apparently the changes made by that enactment were inadvertent clerical errors.

Section 49. This section removes the reference to the costs of prosecution in the penalties for violation of the Alaska Net Income Tax Act (AS 43.20), as those references conflict with AS 12.80.030, which provides that costs may not be taxed to the defendant in a criminal action unless otherwise ordered by supreme court rule.

Section 50. This provision (AS 44.62.150, dealing with the price and sale of the Alaska Administrative Register and Alaska Administrative Code by the lieutenant governor) is no longer necessary due to the publication and sale of the register and code by a private publisher under the certificate of the lieutenant governor.

Section 51 corrects the reference in AS 44.68.020 to the department responsible for rules regarding the use of state-owned vehicles. Executive Order No. 18 (1962) and AS 47.44.020, enacted in 1963 (ch. 49 SLA 1963), transferred this responsibility to the Department of Highways.

Sections 52 and 53 make changes in provisions under the food stamp program (AS 47.25.975 - 47.25.990) to bring those provisions into conformity with changes in the federal food stamp program enacted by Congress in 1973 (P.L. 93-86).

RB/sm

* Sec. 54. AS 02.15.270(10) is amended to read:

(10) "municipality" means a general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class borough, [CITY, PUBLIC UTILITY DISTRICT OR OTHER POLITICAL SUBDIVISION] incorporated under the laws of the state;

* Sec. 55. AS 37.15.220 is amended to read:

Sec. 37.15.220. SHORT TITLE. Sections 10 - 220 of this [THIS] chapter may be cited as the State Bonding Act.

* Sec. 56. AS 43.56.030(2)(C) is amended to read:

(C) taxes on the sale or use of services used in or associated with the property or in its [ERECTION, CONSTRUCTION,] maintenance or operation except for the sales tax on the first $1,000 of each sale;

* Sec. 57. AS 47.05.030 is amended to read:

Sec. 47.05.030. MISUSE OF PUBLIC ASSISTANCE LISTS AND RECORDS. It is unlawful, except for purposes directly connected with the administration of general assistance, adult public [OLD AGE] assistance, [AID TO THE BLIND,] or aid to families with dependent children, and in accordance with the regulations of the department, for a person to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, a list of or names of, or information concerning, persons applying for or receiving the assistance directly or indirectly derived from the records, papers, files, or communications of the department or subdivisions or agencies of the department, or acquired in the course of the performance of official duties.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Thursday, March 28, 1974

Chairman Tillion called the meeting to order at 3:13 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Malone, McVeigh, Orsini and Berry.

Gambling

McVeigh had the material about gambling (HB 801) and the collectibility of such debts. Malone said he would like to have Mr. Havelock's opinion on this piece of legislation tomorrow. McVeigh read Judge Wickersham's decision on this subject. It was enjoyed by all. HB 801

After consideration of the contents of the bill, Tillion said that only 3 should be included in the bill. He suggested that 1 and 2 be deleted and that the penalty be a misdemeanor rather than a felony. McVeigh said if you leave only 3 in the bill, then you should leave the penalty as a felony.

Land Classification

The next item for discussion was a land classification bill. (HB 827) Orsini said that the farm portion was fine. Tillion said that the other portion was to include people like Smokey at Eagle River. You are going to force him to divide the land. This way the local government will be protected, too. Orsini felt that this takes into account all kinds of situations. Tillion said that now with 2-1/2 acres and a house--it would be as if your zoning prevents zoning if less than 2-1/2 acres. Malone moved to introduce this bill with a committee report and sign it out "Do Pass". Orsini objected because he had some more questions. HB 827

Under definitions--if it is all the land in the state that will cover 40 million acres. You can't get an agricultural classification on 2-1/2 acres. Tillion said this was at the request of people like in Juneau where 2-1/2 acres is too large. This says you don't have to subdivide. This in effect is zoning by the property owner. It keeps people from being forced off their land and this is being done all over. Orsini said that this would require an additional tax. Is this just the tax they would have paid? Paying it at the current rate got a little too tough. This is an arrangement to keep people on their land. Tillion said that he and Malone were acquainted with some of these people personally--the ones that were being forced to sell their land because of the high rate of taxation. These are not speculators and they can't claim agricultural preference. It is not in the best interest of the state to force them off their land. Tillion said he didn't know of a more equitable way. Orsini said this will affect the municipalities quite a bit. For instance the Matanuska Valley--Jay is running into this.

Land Classification

Orsini said that they would have been getting "x" number of taxes and now they will be getting taxed as agricultural only. This will remove the agricultural income part and the municipalities to raise the mill rate for the person with the quarter acre lot. Tillion said this doesn't free them from taxes on the home. Orsini said this would be shifting it to the larger amount of undeveloped land to the man owning the smaller amount of land. Tillion stated that the additional good is worth it. Orsini said there was a senate bill allowing for green space. Malone's motion was acted upon and the bill was signed out. Tillion, Orsini, Banfield, Malone and McVeigh all signed "Do Pass". (HB 827 - Authorizing farm use of undeveloped land property tax assessment.) This bill was introduced with a committee report at the time of introduction. HB 827

RCA Commun. Satellite

HJR 95 - Proposed RCA communications satellite. Tillion said that he had an explanation on this that he could read if the committee desired. This is from Dr. Fritz of the Communications Committee. The main reasons are that they are sending the satellite up about half-equipped. You won't be able to add additional equipment later because it is so specialized. If RCA is going to send it up we want to have telephone communications around Alaska too. The additional equipment needs to be added before they launch their satellite. RCA has planned only to send enough equipment to take care of pipeline communications. Banfield asked if Senator Ted Stevens didn't support this. Tillion said that he did. Orsini moved for a "Do Pass" recommendation on HJR 95. Tillion, Malone, McVeigh, Banfield and Orsini signed "Do Pass". HJR 95

Penalties for sale of drugs

Tillion said that he wanted to consider HB 104 and SB 15 both relating to drugs. He wanted the committee's opinion on replacing HB 104 with SB 15. It would be a CS for the house bill. We asked for something asking for commitment of addicts and this senate bill has it. HB 104 is the same title. We could add the text of SB 15 into the House bill. On the back page it allows for commitment. Malone said that it has a punishment section, too. Tillion said we would take only the title from HB 104 and substitute SB 15 in toto. Malone moved and asked unanimous consent that a CS be prepared for HB 104 which would be the test of SB 15. Tillion asked about the penalty provisions. This is a tough one. Jamie Love said unless you do something this tough, you can't get them to go the the halfway houses. Malone suggested that we leave that section alone. He doesn't want to make the sentence any longer. Tillion asked if the committee wanted to sign the committee report now. Banfield moved to do so and sign it out now with a "Do Pass". Tillion, Banfield, Malone, McVeigh and Orsini signed "Do Pass". HB 104 SB 15

Revocation of MV licenses

HB 154 - Revocation of motor vehicle operator's license was up for consideration. Tillion said that the senate has passed SB 193 - Reckless and negligent driving. HB 154 SB 193

Revocation of MV licenses

Reckless and Negligent Driving

McVeigh said that we have an implied consent law. Tillion said that HB 154 has passed the House and it is in Ziegler's committee. Now SB 193 has come over from the senate. If we put it on the floor we would have a CS for SB 193 and once on the floor it would pass. McVeigh said he didn't like mandatory revocation for anything. A lot of people depend on their livelihood by driving. Tillion said that Fish and Game take away your license to fish for various violations. Tillion also said that you have to be convicted--you are thoroughly smashed. McVeigh said it doesn't say drunk--it says under the influence. He also noted there was a catchall here. Tillion said the judge would have to find you guilty before revocation. McVeigh asked if he was suggesting that CSSB 193 be HB 154.

On line 26 the court convicting a person on any of these things listed--unless their livelihood will be impaired. This makes it more palatable. Orsini asked if this was a minimum sentence type thing. The court now has the prerogative to do this now. McVeigh moved to make the change from CSSB 193 for HB 154. The CS was signed out with Tillion, Banfield, McVeigh, Orsini, and Malone recommending "Do Pass".

Qualifications of assistant adjutant general

HB 614 - Qualification of an assistant adjutant general in the National Guard. This is the Governor's bill. Banfield moved and asked unanimous consent to sign this bill out with a "Do Pass" recommendation. It was signed Do Pass by Banfield, Tillion and Orsini. Malone and McVeigh signed "No recommendation".

Meeting adjourned at 4:07 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, April 3, 1974

Chairman Tillion called the meeting to order at 3:45 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Chance, Orsini, Malone and McVeigh.

Copper River Highway

Malone moved and asked unanimous consent that "A" which referred to the reconstruction of the Copper River Highway be reported out of committee with a "Do Pass" recommendation. (HCR 100) This resolution was introduced with a committee report. Tillion, McVeigh, Chance, Malone and Banfield signed "DO Pass"; Orsini and Beirne signed "No rec". HCR 10

Chitina/McCarthy Highway

Malone moved that the committee introduce proposed House Concurrent Resolution (No. 97) relating to the reconstruction of the Chitina/McCarthy Highway and that it be reported out with a committee report signed "Do Pass". Tillion, Beirne, McVeigh, Chance and Malone signed "Do Pass"; Orsini signed "No rec". HCR 97

Empty Calorie Snacks

HCR 85 - Sale of "empty calorie" snacks in public schools. McVeigh asked if we shouldn't leave this to the school boards locally. Chance said she would like to move to report this resolution out with a "Do Pass" recommendation. McVeigh objected. Chance said it is not the students who would object, but it would be the venders. HCR 85

Mr. Hackney appeared before the committee in favor of this resolution. He said he felt the school boards would like to have us do this--to back them up. This would put the individual schools in the position of saying they won't be getting any money from the use of these machines if they do have them. Chance asked if this took out the coke machines. He presented some statistics on the amount of money spent in the machines in the various schools. Action was taken on Chance's motion and the resolution was signed out. Tillion, Beirne, Malone and Chance signed "Do Pass"; Orsini and Banfield signed "No rec"; amd McVeigh signed "Do Not Pass".

Gambling

HB 801 - Gambling. Tillion said this bill could be dropped because when we take up extortion it will cover this problem. HB 801

Guidelines for plea bargaining

Tillion said we had a house concurrent resolution (No. 98) relating to guidelines for plea bargaining. This is one that we requested. This resolution asks the court to do something about sentence bargaining versus plea bargaining. This requires the setting out of guidelines. HCR 98

Guidelines for plea bargaining

Chance said this only covered plea bargaining. Tillion said they just lump it all into one. Chance moved and asked unanimous consent that we introduce this resolution and submit it with a committee report signed "Do Pass". Tillion, Malone, Orsini, Chance, McVeigh, Beirne, and Banfield all signed "Do Pass". HCR 9

Alaska Police Standards Council

Tillion noted that he had another house concurrent resolution (NO. 99) relating to the Alaska Police Standards Council. Malone said the idea of the resolution is to get the council to come up with some realistic recommendations for minimum police standards. Chance moved to report this resolution out with a "Do Pass" recommendation. This was also the time for introduction for this resolution. Tillion, Malone, Chance, McVeigh, Beirne, and Banfield signed "Do Pass"; Orsini signed "No rec". HCR 99

Carrying of Firearms/ places selling liquor

HB 633 - Carrying of firearms in places licensed to sell intoxicating liquor. Orsini asked why they needed this piece of legislation. It appears that hunters go in these places and get all liquored up and end up in some shoot out. This is to make them put their guns in the rack. Tillion asked if the committee should have a CS drawn up. Chance was in agreement. Orsini suggested to make this apply only to unorganized areas of the state. Tillion said he thought that Anchorage already has something in their ordinances about the carrying of firearms. McVeigh said you can't carry concealed weapons. There was no further discussion of this measure. HB 633

Expanding duties of Commission on Admin. of Justice

Tillion said that we had a bill drawn up--An Act expanding duties of the Commission on the Administration of Justice (HB 835) Tillion asked if the committee would like to introduce this bill and have it referred back to this committee. Malone so moved. This bill was sent over for introduction and request for return referral. HB 835

Crime of extortion

HB 794 - Extortion. Tillion said that there is a statement from Havelock. (Beirne arrived 4:00 p.m.) Chance asked about subsection 5. Tillion said this was not objected to by the unions and their leaders. Chance asked what category the telegrams on employee pay raise would fall into. Tillion said this is threatening you but not your property. Malone asked if this was what Havelock is talking about in his memo. Tillion said that at the present time you can't get a guy on a criminal charge for doing several of these other things. Malone said that Joel Bennett drafted this, but Havelock started it. HB 794

HB 794

of Extortion

Tillion asked if the committee was prepared to vote on this bill. Malone wanted to discuss it further. McVeigh said there was a pretty good comment on the bill that explains it. Tillion read from Joel's comments. Malone agreed that it was a good explanation. Malone moved to report out HB 794 with a "Do Pass" recommentation and asked unanimous consent. There was no objection and the bill was signed out. Tillion, Malone, Orsini, Beirne, McVeigh, Chance and Banfield all signed "Do Pass".

Collection of hosp. exp. for mental patients

HB 550

HB 550 - Liability for and collection of expenses of hospitalization of mental patients. Dr. Beirne said that when a child goes into a place where they receive psychiatric care or mental retardation treatment there is no limit on what they may charge the parents of others in your family. If the spouse can't pay for their own spouse, then an adult child would have to make these payments. A number of people feel that when the child goes in by the time they reach 18--at that time they are probably going into retirement themselves. You would have to say that after age 18 the parents wouldn't have to pay. We also took out spouse and adult child so that if a person went into API and they couldn't go in for care because it would deprive the rest of the family they would just go without the treatment. We are not really taking away much from the state. Another change in the HESS CS was that at the bottom of the page regarding payment--there is no statute on limitations. Some people are getting bills that are four years old.

Tillion thought that the statute of limitation says it is three years. McVeigh asked--for what? He said he didn't think this applied to billing. It might apply to when you can bring a civil or criminal proceeding against someone. Chance said this was put on by the First Legislature. The department has now set about collecting from parents. They did this already for the VA, Medicaid, etc., but not for the parents. The budget and audit committee says the law says they are supposed to collect this from the people, too. The parents who have children institutionalized--they are getting huge bills for back care as well as current care.

Chance gave an example of one family. They live in a rented trailer and have three children besides the one that is in the institution. This child is at Harborview. After the department went through their financial items they ended up sending them a bill for $362 a month. That is one of the reasons for the $50 per month amendment. There would be a rate schedule starting at $50 per month. Malone objected to this because you couldn't attach the estate and the people who had the money and could afford to pay should pay. A lot of people caught in this bind get bled dry and it doesnot work to the advantage of the public as a whole. The feeling was at least for our part that the people paying the taxes to support the institution

in the first place then they have to pay again when they bring some of their family to be treated.

Collection of hosp. exp. for mental patients

Tillion said that Dr. Fritz had signed "No rec". Beirne said he feels the same way as Malone--the people should pay their own way. The spouse should pay for the spouse. This relates really to the person who goes in for treatment for himself.

Chance said that she can go into a hospital to have treatment in one that is privately operated and could be admitted on her own signature. There is no requirement that her husband would have to sign that note. Here in this law we say that whether it is agreed to or not the other spouse cannot go in and get treatment without the absent spouse agreeing to pay for the cost. She agreed that the people who can afford it should pay. She said her own personal feeling is that if you have a mentally retarded child that you shouldn't have to pay at all. Juveniles sent to McLaughlin, for example--their parents are not required to pay for their care. The way the rate schedule is prepared now if the people improve their income their rates go up. Tillion said he could see this for the retarded child, but if your wife has a breakdown, under this bill, you wouldn't have to pay. Malone said that Helen had some figures on what they are collecting in the state now. Tillion said we might be opening a door. Chance said we would be enacting what has been done until Budget and Audit made the department actively go into collecting. If the people could afford to pay the state charged then and if they couldn't they didn't. It is existing practice that we are trying to enact into law. Tillion felt that when you remove the "spouse" people that were automatically paying then--they will no longer pay. Orsini asked how much they wouldn't be able to collect that they are now. Chance said most of the collection was from Medicaid, Medicare, Social Security, Insurance and the VA.

Banfield asked what would be the case if the individual who needed hospitalization for mental problems was the wage earner or his wife is so bad she has to be put away in an institution. Maybe he has a family of children and if you have priced homemakers, lately--they really cost these days.

Orsini said it seemed that we were talking about mental health. It is like physical health except it in your head. Do we have free medical health for physical needs? Beirne said this is a public institution already. The people pay the taxes to keep the institutions going and then they get sick and have to pay for the care. You must remember this is the income group that can't afford private care.

HB 550

ection of hosp. exp. for mental patients

Chance amendment was on page 1, line 18. The department said we should be careful that we are not setting up two separate pay schedules or the federal government will refuse to pay the higher rates. She sent to Washington, D. C. and they said it would impair collecting of federal funds. It would put a ceiling on the rate schedule. We don't have to strike anything. The parents cannot be charged more than this. Tillion said he couldn't support Chance's amendment. He said he pays more than that to the people who take care of his youngsters while he is away at the Legislature.

Chance outlined how they arrived at the schedule for payment. They start with your income and allow you to take out so much for certain expenses. You get this down to your annual income and then you will pay according to that amount. She said they adopted the California schedule. The department feels that they are under orders from the Budget and Audit Committee to do this. She said that we need to rewrite this section next session. Between now and then some of the families are going into bankruptcy. They are also leaving the rest of their children out in the cold so to speak.

Chance moved and asked unanimous consent that the amendments be adopted. Orsini objected. He said it was his understanding that if you have a retarded child and say they are in Hope Cottage and they are staying there permanently that it will cost more than $50 a month to keep a child in a home. This should be what you would have to pay if the child were kept in his own home. Orsini thinks that $50 is too low. Malone agrees. This is just an arbitrary figure. The actual collections are less than 10% per capita. This in some cases will work a terrific hardship on some people. This is to retain the state sources of funding but not to work a hardship on the parents, next of kin of the family. Malone thinks that some limit is fair. Orsini moves to amend the amendment to insert $150. Chance objects. Beirne said that the department is failing in doing anything about this and that is why we have to try and do something to give these people relief. They just don't use good judgment. Malone moved to amend the amendment by say the figure should be $75. Tillion said he had to pay $100 to keep his children in his own home while down here.

Malone felt that what this limit does is place a ceiling and the person would pay a lesser amount if he couldn't pay the full amount. By raising the limit you are not necessarily defeating the purpose of putting a limit in the bill. He felt that $150 was pretty high. This, of course, would depend upon how old the child is. Beirne said they had testimony on this point. One individual said that actually that if you have five or six kids it doesn't cost a greater amount than if you only have one child. Tillion said that was true as soon as you went past about three kids--then you start getting the

expenses down to where they are reasonable. Malone felt that Orsini should think about $100 per month. He agreed to that amount. Tillion asked who was for the amendment to the amendment. Orsini moved and asked unanimous consent to adopt the $100. Motion carried with Chance voting No. Malone thought the amendments should be included in a CS. HB 55

Collection of h[illegible]. exp. for mental patients

Orsini said this only applied to parents--what about guardians? Tillion said spouses have been included and he thinks they should contribute up to $100 per month. Tillion moved to add "spouse" back in. Chance objected. She objected because she thought people would be denied treatment. Malone said that if we were going to do that there was more extensive work to be done on this bill. This amendment only applies to spouses. Tillion suggested that we turn this over to Randy and include not just the parents but spouses and leave the $100 limit and then bring the bill back to the committee. Chance objects. Orsini asked why not include legal guardians.

Beirne said that was Hartig's objection. The legal guardian might be somebody who may have received the estate of the individual in his name. Chance said there were two types of guardianships; one is the estate and other the person. Beirne said that was one reason this bill was held in HESS so long. This was one point that needed study. It is a very good bill, though. Tillion said he would be sure that the bill gets out of this committee. This would cover spouses and parents with the $100 limit. Orsini said he never got an answer to his question. Beirne said that some people are given legal guardianship over a child just because they are kind people. The child ends up in API and this then makes them responsible for the care of the child while in API. In the process we may have also knocked out someone who is a legal guardian. What about adoption? Chance said this was different. As an example--her sister dies and GC becomes the legal guardian of her children. If there is a problem and they need to be institutionalized --they are not my children, yet I am burdened with it just because I was assigned the legal guardian. Tillion said he was willing to leave the legal guardian out. This will be put aside until Randy gets here.

Beirne said there was a six-month statute of limitations on the bill. Tillion thought that was good.

Exemption/ Income

SB 219 - Execution exemption for income. This is Senator Ziegler's bill. Tillion said he will be taking testimony on this but we will hold it until we get some of our bills out of his committee. Mr. Clocksin from Alaska Legal Services said his information shows this to be Senator Croft's bill. Orsini asked what execution exemption was. Mr. SB 219

Clocksin said it is money they take in a garnishment. This says how much of the wages they can take. By court order a portion of your wages are taken out before you receive it. They get the money from your employer. There is presently a state law and the federal law on this subject. In our state, federal law supersedes state law. This change was made in 1970. State law is still on the books. This incorporates the provisions of the federal law into the state law. It is a matter of conforming state law to something already required under federal law. There is one specific part which does provide for an exemption higher than is mandatory in the federal law. That is the $114 on page 1, line 16. Tillion asked what the federal exemption was. Clocksin said that it was $48 per week. Tillion then asked why we were going to $114. $114 is fairly close factoring to $500 per month which is the approximate cost of living rate in Alaska. The $114 would make it $494 that would be exempt from attachment. This is a rough figure, and is based on the minimum salary paid by the state to their employees. Anyone receiving below that will be exempt from garnishment. That is the part of the bill that is optional. The rest of it is mandated by the federal law.

Tillion said he could see going to conformity with federal law. We have quite a few people making less than $500 a month in my area. They have property and are living quite well. They would be absolutely free from garnishment, then.

Mr. Clocksin said that this passed the House in the Seventh Legislature and it passed the Senate last year with no dissenting votes. It died in the senate the year before that.

Malone noted that we were talking about income and not necessarily about property. Clocksin said that was completely separate. Malone said he thought it was most likely if someone is not working at a weekly wage where the disposable income doesn't exceed $114--what you are trying to do is get blood out of a turnip. Clocksin said this was the mandatory exemption. Chance said it would be pretty hard to eat on that. Tillion said that in Anchorage it would be almost impossible. This has to be a legal debt, too. Banfield moved and asked unanimous consent to sign this bill out with a "Do Pass" recommendation. Orsini objected. McVeigh called the question.

Tillion said he could see going to conformity with federal law but felt that the amount was too high. McVeigh said the only problem with that was that Tillion was gearing it to the people living in his community. This affects the people in Anchorage as much as other people. Banfield said the second thing wrong with his statement was that you are gearing it to stateside figures. It is considerably less there. Chance again called for the question. Malone was checking to see what "disposable" income was.

Clocksin said it is defined in the bill. Tillion said that for a single person this would be a sizable amount. Tillion called the question. Tillion and Orsini voted No on whether to put this bill out of committee. Banfield, Chance, McVeigh and Malone voted Yes. The bill was signed out with Malone, Beirne, McVeigh, Banfield all signing "Do Pass"; Tillion signed "Do not Pass"; Orsini signed "Do not Pass unless amended". (Randy arrived at 4:55)

SB 21

Exemption/ Income

HB 550 - Liability for and collection of expenses of hospitalization of mental patients. (Beirne arrived 4:57) Tillion said that we wanted to raise the monthly amount to $100 and include the spouse in our CS. Banfield said there was a problem with that. You can say that you are married and that it is the responsibility of the other one to pay. We all know this isn't always the case. She said she could see people not letting the other party get the needed treatment. Randy will prepare the CS. Chance said there is no other part of the law that says one party is liable for another party's debts. Tillion asked if that were true. Banfield said that was right. Tillion said he felt this was in the necessities of life category so the spouse is already subject to this. Chance asked about the marriages where they don't even live together. Beirne said a person would not be able to go in without the pleasure of the other person. Someone would have to be responsible for the payments. Tillion said the husband would be, but he didn't know about the wife. Banfield doesn't think that "spouse" should be in there.

HB 550

Collection of hosp. exp. for mental patients

Tillion moved to bring out a CS setting the limit at $100 per month and to include "spouse" as well as parent. Chance objects to "Spouse". Malone said that one of the possibilities that we had discussed was to repeal this section of the law but you would lose the federal money. Chance said she wouldn't want to lose the federal monies. Beirne agreed with this. McVeigh, Orsini, and Tillion voted Yes on adding spouse. Banfield, Chance, and Beirne voted No. Motion failed. Beirne moved and asked unanimous consent to have a CS prepared and to vote it out with a "Do Pass" recommendation. Orsini and Tillion signed "No rec"; Banfield, McVeigh, Chance and Beirne signed "Do Pass".

Malone asked the committee to look at the Native Claims Settlement Act. (HB 834) Beirne said this passed last year but it failed in the senate. They were checking some points on this bill. Tillion suggested we go on to HB 714.

HB 834

Inher. of stock Native Claims Settlement Act

HB 714 - Agricultural land classification. Banfield wanted Orsini to explain this bill. Orsini said that the world's population will double in the next few years because the Asian, African, and South American continents are putting a strain on available land. Agricultural land will become increasingly more difficult to keep.

HB 714

Agric. Land classification

Land Classification

Orsini said that we had already reached a limit on our oceans. We have to go back to the soil to raise the standard of living. We need more croplands to do this. Beef takes more acreage to feed per pound than it takes to feed a chicken per pound. We eat more beef so it takes more resources to do it. We are trying to preserve potential cropland.

He said this is already happening in the Mat Valley and the Kenai Peninsula. Mat Valley is rapidly being taken up by subdividing. The intent of the bill is to take state owned land with soil of agricultural potential and have the Commissioner of Resources to rezone that for farm use only. In addition, any private land owner with a parcel over 100 acres may voluntarily have his parcel zoned as agricultural if it is in the area of this soil. He will fall under 29.53.035 which rezones itself to farm use land. He has to be deriving 25% of his income from the farm. If the land is in this category, he doesn't have to develop his land as under the old law. He can just let it set if he wishes. Or, he could farm it but he couldn't build any industrial developments there. If at some time in the future he desires to take it out of the agricultural land zoning, he may do it under section (e). This would be after a hearing through the APA under the Commissioner of Resources. It has to be approved He then has to pay the back taxes--the differences between the taxes in the farm use rate and what he would have paid under a different zone. Interest would be added. The purpose being to provide a double method of difficulty from changing from agricultural zoning to something else. He said he felt that the Kenai people will testify that a number of homesteaders are being forced off their land because they have to pay too high a tax.

Chance said that on page 2 you are talking about the Department of Revenue. We don't have a statewide property tax. Orsini said the Department of Revenue doesn't tax. This is a state zoning bill. The state has to do it and presumably it would go through the department of Revenue. Tillion said you would have to see that the local government gets the back taxes. Orsini said that if that is the case, then the local government should collect the back taxes. Chance said the local municipalities should be allowed to do this. Tillion agreed that back taxes should be paid to the municipality. This will be amended. Orsini agreed to the amendment. Tillion said we would have to bring this back before the committee. It is a serious thing. Orsini said he wasn't against rewording it. It will be changed so the local government will get the back taxes.

Orsini asked if the committee agreed with the concept. Chance asked if he was making sure that the assessment will be lower than if they were assessing it as subdivision property. Chance said there had been some complaints as the tax assessments were based on the value as though it

Ag[illegible]. Land Classification

were being subdivided. Tillion said that was the main purpose behind this bill. Orsini said this is the agricultural land exemption. Tillion said that is already on the books. Randy said that was true but it required that you receive 25% of your income from farming before you could get this classification. There is a question on this. Orsini felt that it should be considered as farm use land. Berry said he wasn't sure that it makes the person who owns it eligible for the exemption. Tillion thought there should be a repealer on that section. Orsini asked about the person who had a homestead on land not having the agricultural potential--what happens to him? Tillion said that he had legislation in that would cover that part. He said he would be happy to cover everybody under this. Orsini asked about 29.35.055(a). Berry asked if we wanted to keep the 25% income portion. Orsini said he would rather not change that section. Tillion felt he would be better off to make the change. Berry said that if you don't want to do that you should put something in (e) that will address itself to that problem; not withstanding that the owner doesn't make the 25%. We need to deal with that problem. This is a potential problem. The local assessors may not go along with it. Orsini said we have a law covering grazing. This could come under farm use; that is, if we determine this grazing land may not come under soils of agricultural quality. Orsini thought that we could amend the definition to cover the 25% problem. Malone recommended that we appoint Orsini as a subcommittee of one to bring the CS back to the committee. Tillion said this should encompass two things: the 25% and the back taxes go to the municipal government.

Orsini said there is a grazing map. Under this bill it would be farm use land. So you are hurting your cause. Under present statute a person grazing can come under the present statutes if he is getting the 25% of his income from this source. If you repeal the whole thing you will cause some problems.

Tillion said he was in agreement with anything that stops the spreading of subdivisions on available land. Malone noted that this was not exclusive. Tillion assigned Orsini to get together with Randy and make sure that you can write it in the bill that if you are in this classification that no percentage of your income need by made from the land. Malone said that Orsini's bill was not an attempt to lower taxes but it is a safeguard that some land will be available for agricultural purposes per se. Tillion said he wanted it that land classified under 2 and 3 there would be no income from the land necessary to get this classification.

Inher. of stock Native Claims Settlement Act

Malone asked if the committee would introduce the bill on inheritance of stock in corporations organized under the Alaska Native Claims Settlement Act. (HB 834) This was agreeable to the committee. This was submitted by

HB 834

the committee and was to say by request.

Meeting adjourned at 5:30 p.m.

Chairman Tillion called the meeting to order at 2:12 p.m. in Room 104 of the Assembly Apartments. Present were Tillion, Malone, Chance and Banfield.

HCR 86 - Study of penal institutions in Alaska - was the first item of discussion. Tillion said this was the resolution that Occhipinti wanted to come down here to testify on. Tillion didn't think it was necessary to have him come down. Banfield asked who wrote this? Tillion said it was John Elliot. Malone thinks the whereas clauses are confusing. The unions don't seem to be unwilling to do a little work in the model incarceration camps on an apprenticeship basis. Tillion asked if they were willing to let people do apprenticeship work while incarcerated if their offense wasn't too serious. That it what this resolution is all about. Dr. Fritz wants this resolution passed. Chance said she was willing to move it out with no recommendation.

Study of penal institutions in Alaska

HCR 86

Malone said he would like to make a motion for an amendment Delete on lines 13 and 14, page 1, "keep the inmate population busy and"--we should start with "to". On lines 15 and 16 after "opportunity to repay the state and a victim for injuries and economic losses, as well as enabling them, perhaps," Malone moved to delete these portions of the resolution. Tillion asked why he objected to these words. Malone said he felt this was confusing. There are a lot of ways to keep them busy and "as well as enabling them, perhaps". Are they supposed to pay when they get out for the cost of their trial and incarceration. He said he felt that the court orders restitution. Malone moved and asked unanimous consent for this amendment. Chance thinks this is a good amendment. Tillion said this was for the purpose of getting some of your tax dollars back for their keep.

Banfield didn't think that they needed the whereas clause on sex behavior either. Tillion thought it would be all right to take that one out. Malone moved and asked unanimous consent to incorporate all changes into a CS for HCR 86. This would include the last whereas clause on lines 23-27. Tillion objected for purposes of asking a question. He asked if we have conjugal visits now in the prisons. Malone withdrew his motion. Tillion said he will vote against the amendments.

Chance said that in 1960 or 1961 when John Hellenthal had that in--he didn't make it. It would allow either furloughs to visit the family or to allow the wife to visit them in the jail.

Fran Ulmer said there is no program such as this in the division of corrections but she can check this out.

HCR 86

Study of penal institutions in Alaska

Tillion called the question on Malone's first motion. Chance, Malone and Banfield agreed to the deletions. This will be a CS. Tillion asked if the committee would like to vote it out at this time. Malone said that maybe some people want to make some changes in the last whereas clause so it is a little more readable. Banfield felt it would cause too much discussion on the House Floor. We should leave it as is. Banfield, after further discussion on this point, moved and asked unanimous consent that we delete the last whereas clause. There was no objection. Banfield moved and asked unanimous consent the the CS for HCR 86 be signed out now with a "Do Pass" recommendation. Tillion, Malone, Chance, Banfield and McVeigh signed "Do Pass". The last clause deals with a feasibility study of Alaska's penal institutions. That doesn't fit in with the rest of the resolution.

HB 834

Inher. of stock Alaska Native Claims Act

Malone began discussion of a bill that has been introduced on inheritance of stocks under the Native Claims Settlement Act. This was HB 834. Chance asked who wrote this bill. Malone said it was Russ Mulder.

Chance said that when we discussed this earlier there had been a question as to whether this was going to be in conflict with the adoption laws. Tillion didn't think there was any conflict. This new bill fits better with the probate code. Chance said maybe he intended for us to pass this act instead. Malone said it doesn't cover everything that is in the other bill. He doesn't want to take action on this bill today. Banfield felt we should put these bills out. Tillion said they were going to Rules. He felt that if you were going to pass HB 834, then you needed both bills. Fran said that HB 834 amends the probate code. The new bill amends the health and welfare code. We need a CS to make it consistent--we probably should pass both. Malone moved to report out HB 834 with a "Do Pass" recommendation. Tillion, Malone, Banfield, Chance, and McVeigh signed "Do Pass".

HB 842

Certain Custodians

Malone moved to introduce the new bill--an act relating to certain custodians--with a committee report and a "Do Pass" recommendation. There was no objection. Tillion, Malone, Banfield, McVeigh signed "Do Pass"; Chance signed "no rec".

HB 494

Retail Instal. Sales Act

HB 494 - Retail Installment Sales Act. Malone said that this was a Commerce Committee bill and came from the Interim Committee on Monetary Policy. Tillion said that Mr. Eastaugh was here to answer any questions. Tillion said that this allowed commercial loans for heavy equipment under the Alaska Retail Installment Credit Act. Don Magnusson asked if he could testify briefly.

HB 49

Retail Instal. Sales Act

He said they had no real problem with the bill but would suggest that on lines 16 and 18 the word "unpaid" be changed to "principal" Mr. Magnusson represents the Alaska Retail Association. This would bring the bill more in line with the common wordage in the industry. Chance asked the difference between the unpaid balance and the principal balance. If you have $100 loan and you pay $20, then you have an $80 balance--then you are still paying installment returns on the $100? Mr. Magnusson said that in the bill it says that "unpaid balance" means "principal balance". He said he agreed with Chance that paying interest on money you don't owe is quite abhorrent.

Eastaugh said the present statute is on the unpaid principal balance. Incidentally, what happened is the interim committee on monetary policy decided to make a change in the particular part of the statute and the purpose of the change was to include a certain type of commercial loan that would be eligible for these higher interest rates. Then, having made that decision, they decided to some so-called clean up language. That is what caused the problem. The clean up language really changed things around so that nobody knew what the original bill meant. Now the bill is back in acceptable form.

Tillion said that this allows you to charge interest on money you don't owe. Eastaugh disagreed. The unpaid balance at any one time can constitute the unpaid balance, or interest charges that accrue at that moment. Interest shall only be computed on the unpaid principal balance. You can't charge interest on interest or on service charges. Banfield said in that case you don't need the amendment. Only if you put in "principal" at those two points and on page 2 delete section 16. You would have cleaned it up with a lot less wordage. Chance asked once again what is "principal balance"? Fran said this was the cash sale price and read from the statutes. Tillion said the basic purpose is to bring commercial loans into this Act. Mr. Meekins had a question. He thought that federal law required interest rates to be below 10% for add ons. Mr. Magnusson said that is was 5/6 of 1% per month which amounted to about 10%. Eastaugh said that add on in this case would be about 17.6%. There is no requirement on the amount--just a statement of truth in lending about the amount. Tillion said it comes under federal guidelines. You are adding heavy equipment purchases under commercial transactions.

Tillion asked if there were any objections to the changes as proposed by Mr. Magnusson. Malone asked if this was to make it clearer--his suggestion was to say "unpaid principal balance". Banfield said she thought it should only be the adding of "principal". Tillion said that makes it clearer. Mr. Meekins said this was an add on tax. He said he could go to the bank and he would borrow $1,000. He pays 9-11% interest on the unpaid balance. On

HB 49

il Instal.
Sales Act

a contract that is small in a department store--so what you do is have add on interest. They add on $80. 1/12 of that is $10.80 each month. The rate is on the principal in the beginning. Then you pay monthly. That is the common contract balance.

Chance asked what this did basically--allow the banks to charge a higher interest rate on the contracts? Eastaugh said that it was to extend the number and types of transactions to take in heavy equipment. Before, that wasn't allowed. At the bottom of the page, that which is underlined language, lines 28 and 29 and the next page, lines 11 and 12. That was the original purpose of this amendatory legislation and the interim committee got the language all messed up.

Banfield moved to add "balance" on lines 16 and 18 and to delete the last two lines on page 2. There was no objection. (McVeigh arrived 2:50) Tillion said we would have a CS drafted.

Banfield asked Eastaugh if he meant to say that the banks can't make heavy equipment loans without this legislation. He said that was correct. Chance said they could make loans for commercial purposes but they had to have them at a lower rate of interest. Eastaugh said on this bill that it is somewhat restrictive. Banks can't participate in these loans. Lines 24 and 27 limit banks to charging 11.8% interest. McVeigh said he was late because of the weekly call from the Chamber of Commerce in Anchorage. He said this subject was brought up today. There were numerous questions, but they favor this legislation. Apparently they are limited in their ability to purchase heavy equipment because of the lack in the law that this bill covers. While he said he didn't like the idea that these people selling heavy equipment charge these high rates of interest, the people don't seem to care as long as they can get the money. Eastaugh said that Alaska needs a monetary market. He said we were just driving the business "outside". McVeigh said that was his general impression. (Orsini arrived at 2:55) Malone couldn't find existing law on this. McVeigh moved the bill out with a "Do Pass" recommendation. This was to be replaced with a Judiciary Committee Substitute for HB 494. Tillion, Malone, and McVeigh signed "Do Pass". Orsini, Chance, and Banfield signed "No rec".

HB 734

Cost estimates

HB 734 - Cost estimates and consumer protection. Malone moved to report out the CS for HB 734 with a "Do Pass" recommendation. He expected some discussion before signing it out. Orsini said that section 1 didn't make sense. Fran checked the material in the statutes. It says that you can't charge for repair more than 20% of the estimate. There must be some mistake. Banfield said it should be 120% of the estimate. Chance said that maybe we should ask the sponsor what he meant.

Cost estimates

She was sure that this meant 20% above the estimated cost. Terry Gardiner said that was was meant. McVeigh felt that "in excess" was better language. Tillion said this would make it tough on the handyman type who doesn't provide estimates. He said that for nearly all furnace and roof repair you hire the person and whatever it costs that is what you pay. Tillion asked if the committee wanted additional testimony on this. He wasn't in Commerce when they discussed it.

HB 7

Banfield noted that if someone repairs your TV he has to provide a 90-day warranty on parts and labor. Orsini said the repairman himself doesn't get a warranty on the parts. Gardiner said that when he started out with this bill originally, it was a simple bill. There have been a great many additions since its inception. He said he didn't intend for a guy to prepare a term paper on fixing something. There are all kinds of things that could be included. This talks about who you include and who you exclude. This is not for contractors. One of the things that was added was the clause on providing a 90-day warranty on parts and labor. It probably has a lot of merit but it is not that big a thing. Banfield asked Terry if he would like to go back to the original bill. He said he wouldn't. McVeigh said this bill has a lot of things that are not very practical.

Chance noticed about the 20% figure on page 1, line 13 that in other parts of the bill they say which is not more than 20% above the written estimate. Orsini asked if we just hadn't passed or strengthened the consumer protection bill regarding business practices. Tillion said that was true. Orsini felt this was already taken care of in the previous bill. Tillion disagreed because there were too many changes. Malone would like to have a subcommittee work on the bill and bring it back before the committee. Tillion appointed Malone as a subcommittee of one to work on this.

Rights-of-Way state leases

McVeigh asked for discussion on HB 559 - Compensation for taking rights-of-way across state leases. Tillion said there had been a CS prepared for this bill. We will have some xerox copies made. While waiting we will go on.

Evasion of custody by minors

HB 572 - Evasion of custody by minors. Tillion said that we should hold this until Dr. Beirne is here. Chance thinks there is a constitutional problem with it. Tillion said it will have to have the courts added to it. Malone wanted to relate something about the history of HB 572. The reason this bill is in this committee is to kill it.

HB 572

Back to HB 559 - This one went on to Finance and then they requested that it be sent back to our committee. There were several questions raised that weren't covered when it was in this committee the first time. We have had a CS drawn to answer those questions. The bill has been reduced quite a bit in size.

HB 559

Orsini said that it says provision of the state land leases to the contrary notwithstanding--does that mean that the state may come and take a right-of-way in the land you have leased? Then that is part of the value of the lease in the first place. The person taking the lease from the state--he would pay you more but you say in here that you may take a right-of-way when you want to. Now we are saying--notwithstanding that if the state takes a piece of the land that the state must pay for the reduction in the value. It seemed to Orsini that there are two reductions in this case. Mr. Meekins said there was no reduction in any lease because of the right-of-way section in the lease. Orsini disagreed and felt this was bound to be in the lease. Mr. Meekins said the state has the right to come over any property because they have the right of eminent domain. The way they are interpreting the lease they can not only take a piece of the lease but the whole thing. This will enhance the value of the lease now. In Finance Mr. Hartig said you will practically destroy the lease and it will be practically useless unless you pass this.

Malone had a question on the proposed CS. On lines 16, 17, and 18 there are two types of values. One is the value of easements granted by right-of-way and the other is the reduction in value of your lease. He didn't see any reason for the duplication. No reason for the double indemnity in the bill. Tillion said that from what he gathers if they reduce the size of your lease, they will reduce the amount of your lease accordingly. They do that now. Sometimes this reduction leaves you with something no longer of economic value. While they have taken only a small piece of the lease they have destroyed the value for which you leased the land.

McVeigh gave another example. Say you leased a 20 parcel lot. They take a parcel out of the middle as opposed to taking a lot out of the corner. They ought to take the lease in relation to the overall value of the property. Orsini asked if there wasn't an eminent domain statute per se that says if the state exercises its right that the owner will be compensated. It would seem clearer to add that the lease would be added to that. Take the land that he owns or leases--then they repay them. Tillion said that our state leases say that the state withholds the right at no more than the cost of the lease to take any land they want for access. This leaves the person with a lease that isn't worth very much at time. Malone said he wasn't satisfied with McVeigh's explanation with this thing. Their taking away a portion of the property which reduces the value of the rest of it--they may have, because of where they took this right-of-way, reduced the value by 50-80%. He didn't see the reason for the double indemnity, though.

Rights-of-way state leases

Orsini asked what happens when the state takes a portion for right-of-way and builds a road through it? Tillion said this would only reduce the value you pay for the lease. The fact that you set up a business dependent upon having this piece of land makes no difference. That action could destroy the lease and your business. That is why the double indemnity. Orsini feels that eminent domain should apply to leases as well as owned property. Orsini even felt that the reverse should work.

Mr. Meekins said that the state reassessed their leases every five years. On that next anniversary they would reappraise the land at the present value. Right at the present time if you want to build a warehouse and improve your property and you have a lease on the land, the bankers are turning you down flat. There are two or three cases in the courts on this right now. Therefore the future lease sales are going to be down greatly. It hasn't been widely known in the past. Because of this, you might get your land reduced for lease purposes. Malone still could not see the reason for the double indemnity. Someone will come in and ask for more than they are entitled to get. Tillion said if you built up a business that required five acres and they took one acre and it was leased land, they wipe out your business. They wouldn't have to pay you for it either.

Malone said this says "shall be entitled to". Maybe you want to clarify the eminent domain statutes. I don't think the loss is double. Tillion said these people are entitled to compensation. Malone didn't think the material on lines 15 and 16 was necessary. He was referring to the "full payment of damages." Orsini said in addition to that you would have the value of the leasehold. He wanted to know if that included buildings. Is the business included in the leasehold? Tillion said they are not compensating for the loss of business. Mr. Meekins said this was put in by people who thought it was necessary. If you have a piece of property and they are going to take right off through the center or maybe they are going to put a ramp for an overpass. They have destroyed the value of the rest of the property and they are not paying for it.

McVeigh said that Malone is correct. If you delete the language beginning on line 17 "the easement" it would read the value for the reduction, etc. Tillion said that only covers one thing. What about the reduction in the business? Malone felt that the leasehold was the lease and everything on it. The value in the lease and the reduction in the total real estate would be compensated for. You have a lease worth $50,000 and you completely ruin this and the final value is say $500. Orsini requested the definition of "leasehold". McVeigh said

the values shall be like in the eminent domain. Orsini still wanted to know if the leasehold included the buildings. HB 559

ts-of-way
e leases

Tillion said that when you take a lease there is a pay back provision. They will pay you back the value the lease has been reduced but not for the business that has been planned for the length of the lease. McVeigh said it doesn't do that. Tillion said "b" takes care of it.

There was a separate question asked about the lease. Some interpret this as meaning lease and everything with the lease. If we need an amendment similar to what McVeigh suggested--A person would get compensation under eminent domain for what his real loss is. If you put both of them in there, it was felt you would be confusing the issue. Orsini said that you would have to have general agreement that if a person suffers a loss for everything that he should be compensated accordingly. Maybe we could get our counsel to make sure that this is in the bill. If it is in the bill now, let us pass it out.

Fran said that it might depend upon the context. She will look at this. She felt that it was the value of that which is being leased--it may or may not mean to include the business. Randy prepared this for the committee.

Mr. Meekins said that a leasehold is pretty easy to explain. There are improvements if you have a rented building and you remodel it to suit your needs. The businessman would charge this off to expenses. From the state's standpoint this is only the land and not the buildings. It represents the land only. If you have a building on the land then it is under the federal statutes. If you leased 15 acres of swampy land and you improved it by diking and cleaning and draining it and add fill material and you are leasing the land but intend to also sublease--here comes the state wanting a right-of-way through there. This has reduced the value to the ones to whom you sublease as well as yourself. As quick as these people can move, they will.

Orsini asked about another example. Say you are leasing a five-acre tract as a recreational lot. You build an A-frame on it and along comes a road through your property. The value is destroyed because of the highway destroying the recreational value. Originally you are paying a small amount for this place in the woods--would you be compensated for the reduction in the recreational loss? Tillion said that under the first half you would get your $40 back but your house would not be covered. Meekins said that (a) covers this. Tillion said that Randy wrote this so he probably would have the explanation. Tillion suggested that we wait for him. McVeigh thinks we should move it out--he thinks it includes the loss of the business. Banfield asked if he wanted his amendment. McVeigh said he

did. He felt it was better English. Tillion didn't think we wanted to take that out. Meekins said we want compensation for the value of the land. Don't take that out. Banfield thinks that we should leave it alone. Banfield moved that we leave this as it is. McVeigh moved and asked unanimous consent for a "Do Pass" recommendation. There was no objection. Tillion, Banfield, and McVeigh signed "Do Pass" for the CS for HB 559. Orsini signed "Do Pass if amended".

HB 559

Rights-of-way state leases

The next item for consideration was HB 714 - Agricultural land classification. The change in (e) clarifies the intent on lines 10 and 11. Orsini explained the changes that were made. Tillion said this was strictly a philosophy on taxation. Orsini said this was for state owned land. That is only about 20% in Alaska and it has to be soil with agricultural potential before it can be classified as such. It will be zoned. Private land in the same soil classification if the owner so desires can have his land zoned this way. Then he will get a tax break. The statute currently says he has to be getting 25% of his income from the business of agriculture. To get this changed you pay back taxes plus interest and you have to have a hearing. McVeigh said this was a soil bank bill. Orsini agreed with him. Tillion said he was for it. You need areas to grow food. CSHB 714 was signed out. Tillion, Orsini, and McVeigh signed "Do Pass"; Banfield and Chance signed "No rec".

Agric. Land Classification

HB 714

There was discussion on HB 768 - Penalty for drawing a check with insufficient funds. McVeigh said he couldn't believe this. Banfield said she was not in favor of putting this bill out. McVeigh said we were dropping the lower limits. Tillion said that the Commerce Committee had an amendment. Fran said this made a lower threshold. The purpose probably being to discourage bad check writers. Orsini felt this was excessive punishment. Banfield moved to put this bill back in the file. Motion carried.

Writing of bad checks

HB 768

CSHB 591 - Closed hunting areas close to highways. McVeigh said you can't discharge firearms 60 feet on either side of the highways now. Orsini said this is closed if the advisory board says so or not. Banfield doesn't want to have this bill. We will send down to Fish and Game and ask for their written opinion on this bill.

Closed hunting areas/highways

HB 591

HB 561 - Requiring reports by persons treating those injured by violence. Tillion asked committee members if they wanted to look at this bill. McVeigh said this is not a good bill. Banfield said they have tried to get this passed every since she has been in the legislature. There is always somebody that likes to beat up people so they don't like the idea of reporting such things

Reporting treatment of those injured by violence

HB 561

Orsini asked if you were in a softball game and you got hurt, would something like this have to be reported. Would the doctor have to file a report? Banfield said No, it would have to have been from an assault. Banfield was assigned to this bill. It needs more work done on it.

HB 561

rting treat. of hose injur. by violence

Tillion said we had the CS for HB 633 - Carrying of firearms in places licensed to sell intoxicating liquor. The CS was prepared by Urion. Banfield said she was not in favor of this type of legislation. Tillion said it had been asked for by the state troopers in the Wasilla area. Orsini suggests saying that a local government may establish an ordinance to take care of this. Tillion said they had a problem there because Matsu Borough hasn't accept policing powers yet; so these people have a problem. What really brought this up was they called the police for someone who was shooting up a bar. When the policeman came through the door, then the gun was empty. That's the only thing that saved him. That is one of the risks that an officer has to face. Tillion told the committee they might want to put it out to help them in that area.

HB 633

Carrying of Firearms/ places selling liquor

Orsini asked if the local government doesn't have policing powers, they can't pass an ordinance to do this--then why don't we say they can do this even though they don't have policing powers? McVeigh said the only place that this would apply is in the nonorganized borough. This is for the rural areas. This is where you have the most justification for having guns. Banfield said that many of the lodges have dancing rooms and they serve liquor. The guys couldn't even clean their guns. Tillion said this only covers the bar section. McVeigh asked what about room service?

HB 835

Expanding duties of Comm. on Adm. of Justice

HB 835 - Expanding duties of the Governor's Commission on the Administration of Justice. Tillion said that Jamie had asked to be here on this bill. The bill is verbose as written. I think it should be rewritten to eliminate (e). He gave some suggested language. It changes what is being studied. Banfield said it does not mention the departments. Jamie said they could be mentioned but you don't have to mention them. He didn't think it was necessary. Jamie said he was told by the Commissioner of HESS that it may give it more class not to mention departments. The main thing, though, would be to eliminate the provision for the five-year plan. Orsini asked if the Public Defender was with the Department of Law. Fran said No; they are with the Governor's Office. Jamie noted that the bill said "state and local level". Fran said that it should be made clear what you mean by criminal justice personnel--you should identify them.

Tillion said that he liked Jamie's changes. He felt we needed to make a decision on (e)--whether we should remove it or not.

HB 835

Expanding duties of Comm. on Adm. of Justice

Jamie said it was a good function and they ought to be doing this, without adding a statutory responsibility. This was referring to holding conferences. Tillion said he was not necessarily in favor of removing this part. Banfield said they don't read our letters of intent so we should probably leave it in.

Fran said you still had the problem of what are criminal justice personnel. It isn't defined and that makes for a problem. That's why we generally refer to the departments. Banfield thinks that this is good like it is.

McVeigh said he was really against (c) and (d). We get these five-year plans every year. It takes two people to prepare them and what purpose does the five-year plan accomplish? Jamie asked if it would be fair to say that the long-range planning--you wouldn't want to put this in. What about the lack of coordinating personnel? This type of planning is badly needed. Tillion said we should try some other language on line 24, page 1. He suggests that we cross out "programs and personnel in the Department of Law..". The department shall assist the personnel in a manner which projects--continue with the material on lines 28 and 29. McVeigh objected because we are just codifying what an independent commissioner ought to be doing any way. Jamie said the commission was refusing to get involved in the planning for coordinated personnel.

Orsini moved for a "Do Pass" recommendation on HB 835 after the CS has been prepared. There was no objection and the bill was signed out. Tillion, Orsini, McVeigh and Banfield signed "Do Pass".

HB 39

Noise Nuisances

Orsini asked if we could look at HB 39 - Noise nuisances. He wanted to get any questions the committee might have so he could provide the answers or needed testimony. Banfield didn't think this bill had any chance of passing. Orsini said he was proposing an amendment to cover the objection of Representative Hartig. This was with respect to the legality. He got an opinion from the AG and it would be legal. Banfield asked how you measure decibels. He said they have a measuring device. Orsini said that since the Resources CS he has changed it again and in the proposed CS for Judiciary it is only for motor vehicles. McVeigh said that it wouldn't cover snow machines. Fran suggested that a definition should be added. Orsini said it is intended to cover offroad types of things including snow machines. If you wanted it in this section to include snow machines you would only define it that way. McVeigh asked why we couldn't say off road vehicles. Orsini said that the concept was to get all vehicles including snow machines to be under this. McVeigh asked if this was a big problem on the pipeline. Orsini said it more like a muffler law but substitutes motor vehicles. We are deleting "in normal operating condition." That was a problem to define. He felt that with the rest of it, there was no problem.

Noise Nuisances

Fran read from the statutes--the definition of motor vehicle. This was in 28.10.060. Tillion said that we will sign this out but have Orsini prepare the CS properly. This will be a Judiciary Committee Substitute. Tillion, Orsini, McVeigh and Banfield signed "Do Pass".

Meeting adjourned at 4:45 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, April 12, 1974

Chairman Tillion called the meeting to order in Room 104 of the Assembly Apartments at 2:42 p.m. Present were Tillion, Banfield, McVeigh, Malone and Berry.

State compl. with plat. plan. & zon.

HB 804

HB 804 - Requiring state compliance with local planning, platting and zoning ordinances. McVeigh said that the only comment he heard about it is that it should be with the proviso that the local ordinances are at least as stringent as the state's. Tillion said that was reasonable. McVeigh felt the state should comply if the local ordinances are more stringent that what the state requires. If the local government didn't have any ordinances at all then the state would be required at least to meet their own. The state shouldn't have to drop any requirements. The state should have to go up to local government standards, but not go lower than state standards. Orsini asked if this was for planning and zoning. Tillion noted that before the construction of public works in a municipality, a department shall confer with the planning commission. They don't have to do that. (Chance arrived 2:55 p.m.) McVeigh said he could imagine a local government having no planning and zoning so the state would not be bound by anything, not even their own standards.

Orsini asked about building. Is a building code different from planning and zoning? McVeigh said it was. Orsini then asked how the agricultural bill would fit in with this. Chance said it wouldn't have any bearing on it at all. This is state construction within a municipality. This may also include subdivisions. Tillion didn't see any conflict. Orsini asked if we were saying that the state must comply with the local zoning. In actuality, state zoning would supersede. Berry said there was no conflict here. If the state standards are higher, then they would have to follow their own standards. Malone said he thought there was some place in the statutes where it says "you must comply". Tillion said that line 17 was the problem; where it says "and to the same extent as other landowners." You have political subdivisions, these are below the other standards. They could come in with a state construction program downgrading their own standards. He felt that McVeigh's idea was fine. Malone suggests that we put some language in there. Tillion said we could remove the "." and add the additional language there.

McVeigh said that the state will continue to get into low cost housing. They will have standards for lighting, etc. Most of these communities don't have local ordinances and the state will even ignore its own standards. He said this is what has been happening in Anchorage and vicinity. Chance recommends we add "but in no circumstances lower than state standards". McVeigh said that was what he was recommending.

Berry said that if local ordinances or regulations are more stringent than those of the state, we want to consider that, too. Tillion said that Randy will work on the language for the amendment. HB 804

Development City of Lost River

Malone said that we have SB 294 - Development City of Lost River. It goes to Finance next. Tillion said that when you dissolve the city, the native corporations pick up the land. If you don't, the land will revert to the state. He said he had the AG working on this. If the natives took it to court, they would get it anyway. Malone said he would like to move this bill along to the Finance Committee. Tillion said he didn't have any objection to moving it on. Malone moved to take up SB 294. There was not objection to discussion of this measure. SB 294

You might lose the ability to choose particular lands in this area. McVeigh said the natives would like to select some of the land. He said he had some letters from the director in the Department of Natural Resources. Tillion asked him if he would get someone to come in and testify on this for the committee. We will also need someone from the AG's office; and Willie Hensley. This will be scheduled for Monday, April 15.

Evasion of Custody Minor

Banfield requested the discussion of HB 572 - Evasion of custody by minors. She agrees that unless you bring the courts in it is a bum bill. She asked Tillion if that was what the CS did. Tillion said we would have to get a copy of the CS. HB 572

Malone objects to this bill because it allows the arrest of runaways. Tillion said there is some wording that makes it constitutional. Banfield said that the Speaker had this bill on his list. Tillion on page 1, line 27 where it says "or agency in which he has been placed in the determination of the court or the Department of Health and Social Services, with the concurrence of the court. Page 2 you delete "to the court by the Department of Health and Social Services" and insert "by the court". Tillion said that otherwise the bill is unconstitutional.

Malone said that he still objected to the bill in that it makes running away a crime. I think if you are going to pin a crime on somebody it should be on the parent or guardian and not the child. They should be guilty of the crime if the minor chronically runs away. Banfield asked if he had talked to Helen Beirne. McVeigh said that according to our statutes on runaways, this could not be used to classify them as delinquent minors. Orsini asked what happens when a child breaks a window, etc., the parent is responsible. Why not make the parent responsible when a child runs away? Chance said that they were unless the child had been emancipated through the courts.

Chance moved to table HB 572.

Organized Criminal Activity in Alaska

SCR 57 - Relating to organized criminal activity in Alaska. SCR 57
Orsini said he would move this out of committee with individual recommendations. Tillion asked if the committee wanted to remodel this and ask for LEAA funds. Chance said you couldn't do that. Malone thought it was proper to ask the department to do this study. This is specially true when you consider that other parts of the criminal justice system don't have the investigative staff. He felt it was proper to ask them or Public Safety to do this. He didn't think it proper to drop it all in the law enforcement agencies' lap. Orsini said it doesn't say that the Department of Law has to do the study. They have to present the completed study. Motion was made to pass this resolution out with a Do Pass recommendation. Tillion, Malone, Orsini, and Chance signed "Do Pass". Banfield and McVeigh signed "No rec".

Bail

The next item for discussion was SB 313am - Bail. Jamie Love testified on behalf of the original senate bill. SB 313 am
Chance said that this is after conviction. Tillion agreed that a person would have to be convicted and then he has an appeal--bail can't be allowed in the interim. Malone said this would just eliminate any right to bail for those convicted for first degree murder, etc., after they were convicted and only during the appeal. Jamie said he had a question. This doesn't mean somebody that has been convicted in the past? That was correct. Tillion said he would entertain a motion to pass this out. Chance moved to report out SB 313am. Tillion, Malone, Banfield, Orsini, and Chance signed "Do Pass".

State compl. with plat. plan. & zon.

Back to HB 804. Tillion asked Berry if he had the language ready. He said it should be "shall comply with local HB 804
planning and zoning ordinances and the local regulations and in the same manner as other land owners so long as they are at least as stringent as state standards. Tillion recommends a CS be prepared. Chance moved to adopt the CS for HB 804. Orsini objected. He said that it doesn't say anything about if they are not as stringent. Tillion said that if they are more stringent they will obey them. Berry said that he could say "provided that local regulations are not less stringent". This bill was signed out with Tillion, Malone, Orsini, Chance, McVeigh and Banfield signed "Do Pass" on the CS for HB 804.

Receiving Stolen Property

SB 394 - Receiving of stolen property. McVeigh asked SB 394
about "rebuttably presumed". This is awkward. The reason it is in there is that the guy who is in the pawn shop business has stolen property. In the eyes of the law it is presumed that it is stolen. The rebuttable presumption makes him come forward and show he did not know. McVeigh thinks this is a good bill.

Chance moved and asked that this bill be reported out of committee with a "Do pass" recommendation. Tillion, Malone, Orsini, Chance, McVeigh and Banfield all signed "Do Pass".

Meeting adjourned at 3:32 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Monday, April 15, 1974

Chairman Tillion called the meeting to order at 10:11 a.m. in Room 104 of the Assembly Apartments. Present were Tillion, Chance, Malone, Orsini, McVeigh, Banfield, and Berry.

SB 29

Development City of Lost River

SB 294 - Development city of Lost River. Emmitt Wilson, Department of Commerce was here to testify on the dissolving of the City of Lost River. He said he was a councilman for this city. He said it was the feeling of the council that we should dissolve the city because things didn't materialize as planned. The legislature enacted this to possibly allow a vehicle for the development of that area to utilize federal funding in assisting any financing that was necessary. That has not happened. Therefore, Mr. Wilson, is in favor of this legislation which would dissolve the city.

Tillion asked him to tell the committee the consequences if we don't dissolve the city. Wilson said we could possibly eliminate any further development by the Lost River Mining Company. The company may very well continue to try and develop the mine without the development of a city as well. If the mining company is still willing to develop the area and if the city is any sort of hindrance to them, I think the most appropriate thing to do would be to dissolve the city. McVeigh asked why it would be a hindrance to them. They may or may not choose to develop it. He said this bill was at their request. McVeigh said he was wondering first what their position is and why they feel that it should be dissolved. What are the changed circumstances? Wilson said that the vehicle is no longer there for the utilization of federal funds that were expected to be used by the passage of this legislation. The mining company gives up--then the state selection of land will prevail. Therefore, they arranged that the development company--Lost River Mining Company--could meet with the local regional people in reference to any land selection but it couldn't come about because of the state's position.

McVeigh asked who else was on the council for Lost River. Byron Mallott, Pete ?? from Nome, Asplund from Anchorage, and Martin Olsen from Golovin.

Orsini asked if this was detrimental to future mining. Wilson said Yes, because the mining company will have to make--deal with the native corporations. Orsini said he felt that the state should get this land. Then the mining company could deal with the state. Wilson said this was a blocking out of a part of the land and when it didn't materialize there was no reason why the native corporations could not have the land.

Development City of Lost River

Orsini asked if this was land that had been applied for by the state in their land selections. Wilson said he didn't know about that. Natural Resources Commissioner might be able to answer that. Mr. Fackler said they did not apply for it before. It then became city land. Now, if you dissolve the city, it would revert back to federal land and could be subject to selection. Orsini asked what happens if the interest in developing is not going to materialize and federal funds are not going to be used there. What if we don't act on this? Wilson said if we didn't pass this legislation then he gathered the land will still belong to the city and therefore could conceivably provide an obstruction to the development or block any arrangements to try to develop the mine itself. Tillion said that under the law any land the natives cannot select within two miles of the city--when the time ran out and selections would cross the city you could dissolve this and then the state could have this land for themselves. Wilson said he was not aware of this.

Malone said that the state could refuse to dissolve Lost River--they didn't intend to do anything with it. It wouldn't let anyone using it develop it either. Tillion said it would block native selection. Malone said that he had called Mr. Pavitt's office on this question. He wasn't able to come to the meeting today. He said that as far as his viewpoint was concerned on the land selection--the thing to do was to dissolve Lost River.

Tillion asked how long the natives have to make their selections. Village selections go to 1974 in December; Regional selections to 1975. He said if we didn't pass this then it would become state land. Mr. Degnan said that isn't realistic. Orsini noted that there was a practical problem but not a legal one. Tillion said if we don't pass it this year, the natives will lose the land.

Banfield wanted to know why the state didn't select this land. Mr. Fackler said there is only a small strip of land and Resources didn't think that it was worth too much. The minerals are north of there and that is all patented land. Mr. Degnan said that there were three communities that had an interest in this land. Two of them were: Wales and Little Diomede. There is not enough available land in their communities to make their selections. They also use these lands all the time. This is an opportunity for these smaller communities to participate in cooperation with the mining company to make something of this area.

By not passing this, you deprive them of land selection under the Native Claims Settlement Act. You would be creating a bad reputation for the government.

Development City of Lost River

The Council and the state have both advocated dissolving the City of Lost River. The regional corporation in that area has been trying to get the corporation going so the people in that area can go to work. The reason this was passed in the first place--it was the idea of assisting a private company in developing interests that would be of benefit to the state. This area involves three townships. Mr. Fackler said that it was from 23-25,000 acres.

McVeigh said that the state didn't think the land was worth much or that it had much of a potential for minerals. Then why was the development company so interested in this? Fackler said they wanted to put in a port there. It would be a shipping location.

Wilson said it is necessary for some sort of arrangement--with the state or local or regional corporations--must be made so the land that is patented inland--to get to it you must cross that land. These arrangements will have to be made for anyone who uses these lands. It makes no difference if it a camptown, or whatever.

Tillion said that this bill has a further referral to Finance. Chance moved and asked unanimous consent that SB 294 be signed out with a "Do Pass" recommendation. Banfield and Orsini objected. Tillion felt that the best thing to do would be to pass this bill out "without recommendation".

Kevin Waring, a witness, said that Malott is a member of the council. He agrees with the bill. Development City of Lost River cannot be carried out. It was his feeling that the committee take positive action on this bill.

Orsini asked about the port facility. This is an area of the state where locations for ports are scarce. It is about 70 miles west of Nome. Wilson said it is unlikely that there would be funds available for the company--they have a time schedule to meet. Their intentions are perhaps without any federal funds to go ahead and develop the mine. Orsini asked if the federal government had lost interest in this type of thing. He was told it was cut out of the budget this year. Malone said he could observe about federal funds--He said he wished the federal government would change their minds and viewpoints on freezing federal monies. Tillion said that Congress has changed its mind on this point. It was one of their dreams, but it didn't work. They built two others somewhere else and it didn't work out. Chance said that Kitimat in Canada worked out fine. Tillion said that was because that area had power and minerals. Orsini asked how much money we were talking about. Mr. Waring, from Community and Regional Affairs, said that it was in the neighborhood of $40 million.

SB 294 was signed out with individual recommendation. Tillion, Orsini, McVeigh and Banfield had no recommendation; Malone and Chance signed "Do Pass". SB 294

profit salmon hatcheries

HB 830 - Operation of private non-profit salmon hatcheries. HB 830
Mr. Phil Daniels was here to testify in favor of this legislation. He said that fisheries organizations or sports fish groups have an interest in this type of thing. He also had a letter from Sheldon Jackson College in Sitka which stated they wanted to set up a hatchery. They wanted a gravel incubator system. They desired this to be a part of their curriculum. They said they need this legislation before they can set it up. This will accelerate fish production in the state. He said they also feel that it might be a salutary situation to have someone else in this besides Fish and Game. They could go to the department here and to Washington state for more information. Mr. Daniels said that he had gone to Japan and looked at their system. He said this was located on the Island of Hakaido. They did this where they had pollution problems and a great population of people. They came out with a 24:1 ratio in the cost benefit.

Mr. Daniels felt that this would work. He didn't think this was just a matter of the UFA opinion. He said there was a pink salmon workshop and biologists from all over the northwest were there. Also, the technical knowledge is at hand. The bill seems to be well written. It covers site selection, control of diseases, etc. The control of the eggs are left with the Department of Fish and Game. He said the UFA was very interested in this section. They have proposed some amendments.

Mr. Daniels also said that Alaskans will harvest 70% of these fish. This will be by sports fishermen and others. Funds left over from the proceeds of the sale of any of these salmon by the hatcheries would go to more fish hatcheries. He talked a little about the City of Anacortes, in Washington State, when they wanted to put in a fish hatchery. There was no opposition here, for that matter, except the commissioner didn't think this was a good way to invest our money. He said we have four organizations who would be willing to start raising money for that purpose. If they could raise $25,000 then they could at least get a start.

Tillion said that he had visited one of the hatcheries in Japan. He said it was rather embarassing because they told him they had received help in setting this up from the University of Washington. We have been exporting our technology and not using it ourselves. Banfield said that she had been in favor of this concept since 1963. Orsini said he was in favor of the concept in general but he had a question.

No profit salmon hatcheries

He stated that the concept is that the state has state-owned fish hatcheries. They raise the salmon and let them go in the stream. Phil said there were several ways of doing this. Tillion said that a salmon won't grow to any size unless they go out to sea. There are several ways of producing fish, though. The fishermen, right now, are a little bit embittered by the bureaucracy. They are willing to tax themselves so they can do this. The department gets to look at the brood stock. If you have a bunch of fishermen to give up the money and they stand to gain from the fish coming back through, we should support this activity. Orsini asked if this would be a private organization presumably made up of fishermen. Are they still under state regulation?

Mr. Daniels showed some pictures of gravel incubator hatcheries to the committee members. He said that of the adult salmon that return about 50% are taken by commercial fishermen; 30-50% of the return get back to the stream. This is often far in excess than if you strip the eggs.

Orsini asked why we bother with the fishermen--why not use fish traps? Phil said that it is true that the fish trap is efficient, but what we are promoting is a conventional style fishery. Orsini said he was not talking about being competitive with the fishermen. He was talking about putting the fish in a stream that doesn't have fish now. We will raise a bunch of fish and we will sell the ones that come back to that stream. Phil said there was no profit from the fish. All of this money has to go back into fish hatcheries and fisheries research. It takes away all economic interest. Malone said that was the idea for fish hatcheries. One of the problems--the fish are going to have to come back to a common stock fishery. While they are there--consitutionally, they belong to the people of Alaska and not the owner of the hatchery. Tillion said the fishermen are happy either way. This is a good first step.

All of the hatcheries running in past years haven't worked out too well. It is only recently that there has been a break-through. He said he would like to see something like this become law. He didn't think that anybody was going to make money at it for the next few years. Tillion said the ones in Japan have been given up by the government and turned over to the fishermen who are running them now. Tillion asked if we could pass this out as a CS. Phil suggested on page 2, line 21, after the word "hatchery" add "must be from the Department or from a source approved by the department." That is to make clear that the department has control over the eggs.

Line 26, after the word "fry" add "sold to a permit holder by the state or by another party approved by the department or otherwise transferred to another person." This is to prevent more than one transfer of eggs taking place.

Malone said that sometimes when things are sold they are not always moved around or transferred. In some cases it is only temporary. (Beirne arrived at 10:50 a.m.) He wondered if we shouldn't put in there something saying that unless approved by the department--maybe a better thing to do would be if the original holder of the eggs couldn't use them to... Tillion objected because the only thing that the department had any say over was the diseases. The less meddling and the less permission this business has to get, the better he would like it. Malone agreed with that. He was thinking along lines that you get into legal interpretations on this sometimes. It probably could be covered in the regulations without being in the statutes.

Non-profit salmon hatcheries

Phil continued with his recommended changes. Line 8, of page 3, after "hatchery" insert "may". Line 10, same page, after "inspection" insert "and approval". Page 4, line 19, after "source" add "and number". Line 28, between "cost" and "or" insert "included debt retirement".

Orsini asked about line 19. How do you determine the amount of salmon eggs? Tillion said this is done by weight.

Page 5, line 1, after "activities" it would read "fish sold at prices commensurate with the current market value". This is to keep from someone dropping fish on the market. What we are trying to guard against is that if you leave the fish too long and for them to ripen too long--then you would ruin the fish market if these fish were sold. Tillion said that in Japan they sell these fish by grades and they don't export it. It still has a certain amount of protein in it. Banfield asked if this could be used for animal food. Tillion said there was no objection to that. It also makes very good fertilizer. Malone asked if we couldn't use some different langauge rather than saying fish sold at hatcheries. Tillion said that Randy would put the proper drafting style to this bill when he made the CS.

Randy asked about the amendment on Page 3, line 8. He wanted to have Mr. Daniels explain how that amendment is intended to change the meaning of that paragraph. You took out "may" and left "and approval". He gave him the explanation of this portion. Orsini asked about page 5, line 1, and Tillion said that Randy will put that in better English. Orsini asked if this was for human consumption. Tillion said there are no regulations for non-human consumption. Mr. Daniels said that the hatcheries in Washington state have sold these fish. Orsini asked what happens if the fish get bad. Daniels said they could be used for fertilizer. Tillion said this wouldn't be apt to happen except in bumper years.

Banfield moved that the amendments be worked into a CS by Randy and that the committee report be signed out "Do Pass". Tillion, Banfield, Beirne, McVeigh, Chance, Orsini, and Malone signed "Do Pass". -307-

Children subj. to Superior Court

Legal Advisor for Corrections

Beirne requested consideration of HB 646 - Children found to be subject to the jurisdiction of the superior court, and HCR 30 - Legal advisor for the Division of Corrections. Beirne said we need this for the whole HESS Department. You would probably need the department to testify on this. Banfield you would have to say they would be within the Department of Law. Beirne said she had no great dedication to this. Chance thought that it was a good idea. They have been having their problems because of this. She said that since Art Peterson went to work in the AG's office he has spent full time working on the problems.

HB 646

HCR 30

Dr. Beirne said that HB 646 was at the request of the Governor. Banfield said the reason was that the courts have been doing this. Malone said he didn't know how the rest of the committee members felt about this, but he was all for it. Chance said it was a real good bill. It clears up some ambiguities that a couple of the judges have been working under. Tillion felt this was in effect overriding the court. Chance said that when we lowered the age of majority we inserted the language starting on line 14 and we changed the age to 19, except that the department could petition the court--on lines 14-16. That is what a couple of judges have been using and they prescribe the direct placement of such children. HESS wants to get this authority back to the department who ordinarily makes the placements. Tillion asked if when the court sentences a juvenile to a detention home, does the department say which one? Chance said that was right. That was until we inserted this language that created the confusion about which noun that referred to. There was no question about the fact that the court made the juvenile a ward of the state. Then it was up to the department to place the child. Tillion read the letter attached to the bill. He said he also had a letter from the court saying they they didn't have any objection to this bill. McVeigh moved HB 646 be reported out of committee with a "Do Pass" recommendation. Tillion, Banfield, Beirne, McVeigh and Malone signed "Do Pass". Orsini signed "No rec".

HB 646

Physical Therapy

HB 774 - Physical therapy. Tillion said that this bill has a typographical error on page 5. Banfield thinks we should make an amendment to cover this. Beirne moved and asked unanimous consent that HB 774 with amendment be moved out with a "Do Pass" recommendation. Beirne will carry this on the Floor. Orsini, having been involved in physical fitness wondered if this regulated ordinary gyms. Beirne said this falls under the medical board act. It really has nothing to do with anyone except people who are working in the physical therapy clinics. Physical therapists are something like a licensed practical nurse in comparison to a registered nurse. It doesn't effect Addys' or anything. Orsini asked about the definition section. He said it was a definition that fed upon itself--it says a physical therapist is one that conducts therapeutic exercises. Beirne said that a registered physical therapist cannot practice without a doctor's referral.

HB 774

HB 774 was signed out. Tillion, Banfield, Beirne, Malone, Orsini, and McVeigh signed "Do Pass with amendment"; Chance signed "No rec". HB 774

Interference/ Comm. Fishing Gear

SB 249 - Interference with commercial fishing gear. Tillion said that some of the seismic boats have cut through fishing gear and now are suing the fishermen for having gear in the water. There is no law that says it is a misdemeanor for them to plow through gear. This is particularly true since this is state waters. Banfield moved for a "Do Pass" recommendation on SB 249. Orsini asked what you did in out of state waters. Does the fisherman say he has his crabpots there? Tillion said that a buoy requires that someone else turn from their course and go around your gear. Banfield said that what was going on was willfull and with reckless disregard. The bill was signed out today. Tillion, Banfield, Beirne, McVeigh, Chance and Malone signed "Do Pass; Orsini sighed "No rec". SB 249

Municipal property tax.

SB 455 - Municipal property taxation. This is for the person whose business burns out in the second month of the year. Under present law the borough may assess the inventory tax for the entire year. McVeigh said he didn't understand this. If this is an inventory tax, what are you going to tax them on? Tillion said your assessment if as of January 1 of each year. If a businessman loses his inventory in February, he pays for the whole year. Banfield said that we did this for the homeowner a couple of years ago. Banfield moved for the passage of SB 455. Malone said he was having trouble with some of the language. He said this might not be a permanent cessation of business. It might only be an interruption of the business and the inventory. He suggested we revise the bill to leave out the first clause. Malone said we could provide for reassessment, referring to the example he had given. It would be cleaner to say permanent cessation--some borough might say that it had to be a permanent shutdown of the business. In the case of fire, this is not true. After cleaning up, they usually go back into business. Tillion said in that case he felt you were going to find that the borough assembly will be under pressure not to use the January 1 date. If you do this, the one with the big inventory in July will say you are against him. SB 455

Tillion said he was willing to have "permanent" stricken from the bill. McVeigh said if we left it out then the person could go back into business. Orsini asked if what we were trying to provide was some relief if there was some catastrophy occurring during the year. He said there was a significant difference in the taxable inventory and what you are trying to provide for the person is to be taxed at a lower rate. He may not even cease his business. He just suffered a financial loss for a period of time.

SB 45

Municipal property tax.

Malone read from the present statutes in 29.53.060(b). He read that the assessment can be made on the monthly inventory. Tillion said that the borough claims that under their system they can work out an average on a January 1 figure. In the event of a disaster or cessation caused by disaster they have no method of forgiving that tax. Berry said they had to make the assessment early in the year. Once it is made the way things stand now they are locked into that. This is whether the building burns down or the person determines to go out of business. Malone said this bill provides for reassessment. Tillion said we will prepare the amendment removing the word "permanent". The committee acted on Banfield's motion and signed the bill out with the amendment. Tillion Malone, McVeigh, and Banfield signed "Do Pass"; Orsini and Beirne signed "No rec".

SCR 1

Insertion of valves and special fittings

SCR 1 - Insertion of valves and special fittings in pipelines. This has some amendments by the special energy committee. Tillion asked the committee if they wanted to use the amendments as proposed by the energy committee. Banfield said there was something the matter with the second one. Chance asked why they deleted "by" when it should be changed to "is". Banfield suggested that we adopt the special energy committee amendment with the correction on page 1, line 10. It was decided to prepare a CS. Malone also was going to propose an additional amendment on the between lines 18 and 19. "Whereas to earlier action by this legislature these actions are not in doubt." This was not adopted. Tillion asked Randy to prepare a CS for this resolution. Beirne moved for a "Do Pass" recommendation on the resolution after the CS is prepared. The resolution was signed out today. Tillion, Banfield, Beirne, McVeigh and Orsini signed Do Pass; Chance signed "No rec".

HB 850

Charitable Organizations

Malone said he would like to have the Judiciary Committee introduce a bill relating to the regulation of charitable organizations and the solicitation of monies for charitable purposes. (HB 850) He said it was a simple bill. Jamie Love said that it had been introduced as a senate bill also, but it hasn't moved. It was prepared from a model state act--Washington state last year adopted a similar law. It assure that the money goes to the charities. Tillion said this would be introduced by the Judiciary Committee by request.

Meeting adjourned at 11:45 a.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Tuesday, April 16, 1974

Chairman Tillion called the meeting to order at 3:50 p.m. in Room 104 of the Assembly Apartments. Present were Malone, Orsini, Tillion, Chance and Berry.

Defrauding Hotels, etc.

Tillion said that we had only one emergency bill. It is HB 849 - defrauding of hotels, restaurants, and bars. Randy will check this to see that there are no sleepers in it. Chance noted the language--a person who puts up at a hotel--strange language for the statutes. Malone said it applies to anyone who procures any of these things with the intent to cheat or defraud. Malone moved to report out HB 849 with a "Do Pass" recommendation. Tillion, Malone, Orsini, Banfield, and McVeigh signed "Do Pass"; Chance signed "No rec". HB 849

Arch., Eng., and Land Sur.

Senate Bill No. 67 - Architects, engineers, and land surveyors. Orsini said there were internal hassles in this trade. Malone said he would like to look at the original bill. This will be discussed later. SB 67

Garbage

Tillion said that he had a new bill to introduce. He said that Specking has been asked about this problem by several people. It is about garbage. HB 851) We passed one bill about the cities taking over garbage collection and there was a hole in it. By annexation they can force the people to subscribe to city garbage collection service. We thought we passed this to protect ones already in business, but we missed a small group of people who were providing garbage collection within the city. Randy said the bill last year over-corrected the problem. The one from last year covered the ones in areas outside of the cities--they wanted to be protected because of annexation. Those particular trash collectors were willing to give up any claim to areas within the cities. They would get their permits issued for areas outside the city and give up those areas inside the city. They cities would have to compete with those so they would buy them out. There were a few operating inside the cities who didn't make their case known last year. The bill went through protecting those outside the cities but didn't include those that were operating inside the cities. Chance said she didn't know that. She thought that when an area was being annexed, then if the city wanted to take this over, then they had to buy this privilege from the individual. Randy said that was right. It cast some doubt, though, if they could still operate inside the city. They would like to get this corrected. Malone moved to introduce the bill with a committee report and asked unanimous consent for a "Do Pass" recommendation. Tillion, Banfield, Chance, Orsini, Malone, and McVeigh signed "Do Pass". HB 851

SB 170 - Providing for recall of members of advisory school boards. Malone moved and asked unanimous consent to report out SB 170 with a "Do Pass" recommendation. This bill was signed out with Tillion, Malone, Orsini, Chance, McVeigh and Banfield all signing "Do Pass". Orsini asked what this bill did. Tillion said that it calls for the recall of the advisory school board members. (McVeigh and Banfield left at 4:10 p.m.)

SB 17

Recall of school bds.

CSHB 411 - Establishing a fifth district of the superior court. Tillion said the courts were agreeable to this now. Banfield asked why they had made an about face. Malone said it was because they had gotten the study on redistricting. Jamie Love will check to see where the information on this bill has gone.

HB 41

Fifth Jud. District

Mr. Pratt is here on CSHB 789 - Repealing the incorporation by reference of general insurer requirements as found in chapter 9 of Title 21 in the provisions regulating hospital and medical service corporations in ch. 87 of Title 21. Mr. Pratt said that he represented the Alaska Dental Society of Alaska. This is a medical service association. It was organized to supply prepaid dental plans. The chapter that it purports to amend is the part on hospital medical service corporations. That chapter--what it does. That is the reason for this amendment. It allows setting up regulations, capital and surplus funds for these corporations--he read from the statutes on this subject.

HB 78

Repealing incorp. by reference of general insur.

As you go back into another subsection it requires six months operating capital or $100,000 just to get started, whichever is greater. Then you go to the reserve portion and there you have reserve requirements. (1) You maintain a reserve not less than all your legal obligations of the corporation other than claims. That is a horrendous reserve. This is equal to all claims incurred under subscribers' contracts. (2) Maintain a reserve equal to 50% of all claims charged and received by the corporation. (3) It doesn't say in addition to surplus fund but that is the way it has been interpreted. These reserves must be maintained and it doesn't say either but sets up four different categories of reserves. That includes everything. No other insurance company has to maintain that kind of reserve. It goes into premium reserve--that is all right. These are all regulated by the Commissioner of Insurance.

Mr. Pratt said that after doing all that you have to have a surplus fund. You have to set aside a fund equal in amount to not less than 2% of anticipated claims... He read from the statutes. The part that the bill amends is in the last section of the act. He read it to the committee. It is under the last provisions paragraph.

One of those items that also apply to service corporations is under AS.21.09. That is the one that sets up financial requirements on the regulation of insurance companies.

There is a section that says, however, that they have to have a $200,000 deposit for the protection of the public. He doesn't have to have that in this state and we accept that and we don't have any quarrel with that. When Dr. Brown started his service corporation and others began making theirs--somebody in the insurance department said it looks as if the $200,000 requirement has to apply. We wrote back to them and told them we didn't think that it did. HB 789

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It seems unreasonable that the financial requirements be greater on a local service corporation than on a foreign insurance corporation. They wrote and got the AG's opinion. He agreed with the insurance commissioner. That is why we have this legislation. He gave the reason for the delay in introducing the bill. He said he advised his clients that they should make every effort to make the AG's office review the opinion. He said he really couldn't believe this. They did review it and felt this was a matter for legislative determination and not for their office.

With the $200,000 requirement over and above all the other reserve requirements--it makes it virtually impossible for someone like that to do business in Alaska. You can't deposit $200,000 and then have a reserve amount that covers all your legal obligations, 50% of your premiums, then an amount for known and unknown claims and still do business.

Mr. Pratt said that their contention is that in 1966 the legislation made those requirement to be applicable to hospital service corporations but did not intend the adding of the $200,000 cash deposit on top of all that.

McVeigh said that Al Courtney had talked to him about this last summer. Mr. Pratt said that he was working for Dr. Brown at that time. McVeigh felt they could get a judgement if you really read the statute. He thinks it is clearly understood that the financial requirements stand by themselves. Title 21.09 also applies. He felt they had overlooked the wording to the extent that applies to the intent of this chapter. Malone wanted to check the statutes. McVeigh asked if there were any federal regulations on this. Mr. Pratt said No. He said he had no objection to the rest of the statutes on this subject, he just didn't think the $200,000 requirement should be applied. Orsini moved and asked unanimous consent for a "Do Pass" recommendation on HB 789. Malone asked for a written explanation for this bill, not longer than two pages. Mr. Pratt will prepare this for use when on the Floor.

Suspension of
teachers'
certif.

SB 290 - Suspension or revocation of teachers' certificates. This bill will be considered at a later date. SB 290

Licensing of real estate appraisers

McVeigh asked if we could talk about the appraisers' bill. Tillion said he had received a lot of wires on this bill. This was HB 372 - Licensing of real estate appraisers. He said (Tillion) that he got a letter that said one group was already in association with a national group of appraisers and they had their stationery printed this way. Tillion said that some of the fellows you would grandfather aren't good appraisers but 50% of them are. They said they weren't opposed to a bill but they wanted one that would make sure the people are fully qualified so they can be hired by insurance companies and have their appraising stand up in court. It is a little late in the session to introduce a bill like this. McVeigh felt that we should let this go until the next session so we could have some input from both sides of the issue. Malone agreed because he felt this was a big issue.

HB 372

Alaska's cont. to national statuary

HB 736 - Alaska's contribution to the national statuary hall collection in the United States Capitol. Malone is not in favor of this bill. He moved to table. Orsini objected. He thought that good taste should dictate those things. Tillion said that the state pays for the statue. He said we have two coming. The next time you put one in there, that is the last one. Banfield moved and asked unanimous consent that we send this to the Rules Committee. Malone objected. Tillion called the question. Tillion and Orsini signed "Do Pass". Malone and McVeigh signed No rec". Banfield said she would sign "Do Pass" but had to go to another meeting.

HB 736

Meeting adjourned at 4:55 p.m.

HOUSE JUDICIARY COMMITTEE
MINUTES OF THE MEETING
Friday, April 19, 1974

Chairman Tillion called the meeting to order at 9:13 a.m. in Room 104 of the Assembly Apartments. Present were Banfield, Tillion, Orsini, Chance, and Berry.

Anticipation notes issued by cities and boroughs

SB 476 am

The first item for consideration was SB 476am - Revenue anticipation notes issued by cities and boroughs. Mrs. Banfield said this was something that the Anchorage borough wants pretty badly. She said that Eric Wohlforth was here but was quite ill so didn't get to see everyone about this bill. Tillion said the main problem is that any notes obtained have to be paid within the fiscal year. If they get one in February it will have to be paid back before July 1. Berry explained the debt limit. Orsini felt that what we were repealing was the limitation on debt. Berry read from the statutes in 29.53.030. Orsini said he was reluctant about the repealer unless he could hear some good testimony in favor of it, he felt this shouldn't be taken out. Tillion said that it did not remove the debt limit as such, but you can take a revenue anticipation note late in the year that will have to be paid in the next fiscal year. Chance said this allowed them to carry the indebtedness over into the next fiscal year, it still has to be paid by the following year. Orsini felt that once you repeal the limit on the amount of anticipation notes that you can issue--it seems to him that some municipality can borrow right up to the hilt. Banfield asked Berry to read the repealer. Chance said she didn't see any problem if this were repealed. Banfield said that was what 010 was doing now. Tillion said it allows a larger percentage. They still can't borrow in excess of what they are going to pay back in that year. Banfield said it is difficult to anticipate what the remaining revenues will be.

Orsini said he objected because this removes the 50% requirement. Banfield said the problem is that they can't anticipate their revenues accurately for the remaining part of the year. Orsini said he doesn't object to have the debt carry over into the other year, but he objects to repealing this portion.

Chance moved and asked unanimous consent that SB 476am be reported out of committee. Orsini objected. He wanted to know if there was some way of working that around the concept we are dealing with in Sec 010.

Tillion thinks that this section covers it. Berry suggested that you could change the language around to say that not more than 50% of--...Banfield said you are running into 50% of the anticipated revenue and this is difficult to determine. Tillion didn't think it made any difference as long as they have to pay it back in the next fiscal year.

Orsini asked what would happen if they didn't pay it back. Tillion said they would have to raise the taxes. Orsini asked how you did this. Do you arrest the City Council? Chance said you could file suit. Berry said you would have them come in for foreclosure. Action was taken on Chance's motion and the bill was signed out. Tillion, Banfield, Chance, and Malone signed "Do Pass"; Orsini did not sign the report.

SB 476 am

Anticipation notes issued by cities and boroughs

HB 841 - Limited entry permits and interim use permits for commercial fishing. Tillion said there is a problem that the limited entry commission is running into. They need this legislation desperately this year. There is a problem with the six-months provision on transfer. Banfield said she thought this would be difficult and voted against that provision at the time. Tillion said they had to put that provision in last year because the guy from Bristol Bay wouldn't have let it pass at all.

HB 841

Limited entry permits/interim use permits

There is also the fact that some of the fisheries weren't distressed, such as the sea urchin and egg harvest. Banfield asked why this wasn't introduced by the Governor's office. Tillion said it was because the Governor hated to bring down a bill this late in the session.

Orsini asked why we were striking the language in section 2. Banfield asked who wanted to be able to transfer their permit. Tillion said Hank Reeves bought a boat and got caught in the retroactive license provision. There is an old fellow who has been fishing with him for years who is unable to get a permit. He felt the commission could call this a case of hardship. Tillion said that Jackman said he didn't expect to use this section much.

Chance asked how it was reported out of Resources Committee. She felt this opened a loophole in the limited entry. Chance moved that the bill HB 841 be reported out of committee. Tillion signed "Do Pass"; Banfield, Orsini, and Chance signed "No rec."

Charitable Organizations

Banfield asked about HB 850 - Regulation of charitable organizations and the solicitation of contributions for charitable purposes. She didn't think it had a chance to be passed this year. Jamie Love said this was a copy of the Washington act and it has been in effect there for one year. Discussion on this was discontinued.

HB 850

Closed hunting areas/highways

HB 591 - Closed hunting areas adjacent to highways. The chairman said that he had a letter from Frank Jones and there are some amendments that he suggested. Tillion said you can't shoot while you are standing on the right-of-way. With the changes in this legislation, he would recommend passing this bill.

HB 591

HB 591

Orsini asked what areas this leaves open. Tillion said he didn't know. Orsini then asked why should we leave certain areas open. Banfield said this is for the highly travelled roads that you don't want guns shooting in the area. Orsini agreed with that because if we want to develop tourism, they might want to see the animals there.



hunting areas/highways

Berry said that the definitions of interstate and primary and secondary are terms telling you what roads are meant.

Orsini said he agrees with the original bill. If someone wants to amend it on the Floor, that would be all right. Tillion suggested that he call in and find out what that does and draw up a Judiciary amendment to be presented on the floor. Tillion will get the signatures later. (Tillion, Orsini, Banfield, Malone, Beirne signed Do Pass for a CS. Chance signed "No rec".

Imposition of criminal sent.

SB 526

SB-526 - Relating to the imposition of criminal sentences; and having the effect of changing Rules 32(b) and 49, Rules of Criminal Procedure and Rule 21(f) and (g), Rules of Appellate Procedure. Orsini moved SB 526 out with a "Do Pass" recommendation. Tillion, Malone, and Orsini signed "Do Pass"; Chance signed "No rec".

Meeting was recessed at 9:38 a.m. There was no further opportunity to meet this day so this time will be considered the time of adjournment.





Div. of Ins. -

HB-178

HB 178, 1974

The Insurance Trade Practices and Frauds Act (Title 21, Chapter 36) generally referred to as the Unfair Trade Practices Act was adopted by the Fourth Legislature with passage of the current insurance law in 1966. This act, which forms the core of modern insurance regulation was developed by the National Association of Insurance Commissioners in 1947 as a response to the McCarran Act (Public Law 15, 79th Congress). The McCarran Act was intended to be a challenge or invitation to the states to regulate the insurance business with the threat of federal reaction if response was found to be inadequate.

In the 27 years since the model for our current act was developed, many changes have taken place in the insurance industry. During this time various states revised the 1947 model in attempts to keep abreast of these changes. The N.A.I.C., aware of the growing disparity between the changing times and the 1947 model act, appointed a subcommittee in 1970 for the purpose of producing an updated unfair trade practices act. This was done and the new model was adopted by the N.A.I.C. as a model act during its winter 1971 meeting. Incidentally, the subcommittee which developed the new model was assisted by an industry advisory committee comprised of 15 members from the insurance industry. The point being that industry had substantial input in the development of this bill.

The proposed bill substantially tracks the N.A.I.C. 1971 model act. It makes a number of outright additions in content as well as editorial changes. In order to assist you in your understanding of the various sections of the bill, we felt that a section by section analysis would be useful.

Section 1. This change is editorial. Presently, chapter 36 has sections numbered 010 through 310. Only 010 through 150 were included in the original model bill. This proposed bill will place those sections not properly belonging in an unfair trade practices act in the proper chapters. The section number reference will therefore not be needed.

Section 2. This change represents a consolidation and clarification of elements presently found in AS 21.36.030 and AS 21.36.050. The present AS 21.36.050 concerns itself with "twisting" which is really a specialized form of misrepresentation, hence its inclusion in this proposed section.

The section is expanded to include illustrations, sales presentations and ommissions as methods of misrepresentation. Newly added specific misrepresentations include:

(1) misrepresentation of policy conditions [subsection (1)]
(2) misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy [subsection (8)]; and,
(3) misrepresentation of an insurance policy as being shares of stock [subsection (3)].

Section 3. This section contains editorial changes aimed at expanding its scope beyond insurers only. It is tied to the definition of "a person in the insurance business", on page 9 and 10. The proposed wording would extend to all persons subject to regulation by the division presently.

Section 4. This section contains an editorial change similar to that in Section 3. The result is an expansion of those subject to regulation under the statute.

Section 5. This section is a departure from the model bill. During the Seventh Legislature a bill was presented (HB 339) that was intended to strike at the problem of selection discrimination. This section approaches the problem a bit differently. The bill approached the problem by barring two specific examples of selection discrimination. This proposed approach is more direct. Presently discrimination is covered in two sections, AS 21.36.090 and AS 21.36.120(c). These would be consolidated in one section.

Section 6. This section is a consolidation of present AS 21.36.100 and AS 21.36.120(a). There are no substantive changes.

Section 7. This section is a consolidation of present AS 21.36.110 and AS 21.36.120 (d). There are no substantive changes.

Section 8. This section dealing with unfair claim settlement practices is all new. It lists 12 claim settlement practices which we propose be specifically indicated as unfair. This list was developed through an analysis of complaints in a number of states. The practices listed have all been declared unfair in one state or another by administrative interpretation or regulation. Practices of this nature, have in the past been difficult to prosecute effectively due to the absence of a positive statutory statement that a specific practice is prohibited. During fiscal year 73, the division handled 439 new consumer complaints of which 69 involved claim practices. This division was instrumental in the recovery of approximately $366,714. during that same period, $238,856. of which was due directly to claims practice complaints. Fror this it can be seen that we are providing at least a limited service to the consumer. This section would have the effect of increasing our capacity for complaint handling since less time would be required to establish that a violation of statute exists.

Due to our staff deficiencies, we assume that our complaint files represent only a small portion of the unfair practices existent in the insurance industry in Alaska. We also assume that there are a number of abuses that are never reported or receive any attention by anyone including the aggrieved party. We believe that the greatest percentage of complaints are received by or filed with the insurer responsible for the practice. We do not have the advantage of receiving any material concerning complaints filed in this manner. The various insurance regulatory agencies throughout the country

do make an examination of each insurer at least once very three years. The newly proposed AS 21.36.125 would require that each person in the insurance business maintain records of all complaints received. The intent is to examine these files at the same time an examination is made. This examination coupled with complaint records on file in the division would give a reasonably accurate picture of an insurer's practices as they affect the insurance buying public. This will also be a measure of the effectiveness of the division. We have an additional factor working for the public with this section. No insurer likes to be cast in a bad light. By requiring complaint files which are subject to examiner scrutiny, we feel it will inhibit the conditions which cause the complaints.

Section 9. This section has been expanded to bar the offer of securities as an inducement to insurance.

Section 10. This section revamps the wording giving a debtor or borrower the right to select his agent, broker and insurer. Prohibitions are more clearly outlined. It prevents a person from making a loan contingent on the placement of the insurance for that loan. It bars discrimination against insurers chosen by the borrower. It bars a separate charge for insurance on a loan. It bars the use or disclosure of information developed because of an insurance requirement if that use or disclosure is detrimental to the borrower.

Section 11. This section is very similar to the present AS 21.36.200. The penalty clause providing for imprisonment and/or fine has been deleted since penalty provisions in proposed AS 21.36.212 will apply to the entire chapter.

Section 12. AS 21.36.202 gives uniformity to hearings held by the division for violation of statute, by referring back to AS 21.06.170-240. This is less cumbersome than present statute, in that procedure has been clarified.

AS 21.36.212 provides some teeth for inforcement in the area of fines. The present insurance code provides for a maximum fine of $1,000. The proposed section provides for a similar fine on cases where probable intent can not be shown. If the person should have known his action was a violation or intent can be shown then the maximum fine would be $5,000. subject to a $50,000. aggregate in six months. If the superior court finds that a person has violated a cease and desist order, it may require up to a $10,000. penalty for each violation.

Section AS 21.36.222 clarifies the director's power to promulgate regulations and rules under this chapter.

Section AS 21.36.232 acts to avoid jeopardizing other valid recourse because a violation of this chapter has been prosecuted. This is new wording.

We mentioned earlier in Section 3 that the definition of the phrase "person in the insurance business" is broader in scope. Perhaps it is more accurate to say clearer since the phrase did not exist prior to this proposed legislation. The most notable portion of this definition is probably, the inclusion of self-insurers. This inclusion makes many of the sections of chapter 36 applicable to self-insurers. This becomes important where an employer acting as a self-insurer provides insurance benefits for employees. The primary example being in the area of health care. The problems usually occur in claims settlement. Coercive settlement tactics occur (ie settle for this or look for another job), and outright denial of coverage on various pretexts occur.

Section 13. This section assigns present AS 21.36.170 to the insurance code chapter dealing with the authorization of insurers and general requirements. The subject matter does not belong in a trade practices and frauds statute.

Section 14. This is purely editorial. The term "twisting" has been dropped in favor of the more general term "misrepresentation".

Section 15. The present AS 21.36.190 has been placed in the chapter dealing with insurance contracts. It has been revised to reflect a definition of "fictitious group". This has been a shortcoming of the present statute. The definition was developed after a hearing held in Anchorage on 2-7-72 for that purpose. The filing of group programs is required as well as a demonstration that the group is not fictitious.

Section 16. This is another reassignment of chapter. The section is totally unchanged but has been placed in the insurance contract chapter.

Section 17. Present AS 21.36.210-310 deals with the limited cancellation of personal automobile and property coverages. This statute has proved to be beneficial to the public and non-detrimental to the insurers. It should however have been placed in the insurance contract chapter since that is what it directly affects. Section 17 does this. In the process one minor revision has been made. It is one that some insurers already do voluntarily. The law permits the insurer to non-renew a policy with adequate notice (20 days) but does not require a reason. The revision would newly require a reason for non-renewal. (page 15, Line 4). We have had numerous inquiries about reasons for non-renewal.

Section 18. These sections have all been mentioned in previous sections.

AS 21.36.050 has been consolidated - see section 2.
AS 21.36.120 has been consolidated - see sections 5-7.
AS 21.36. 140-150 have been replaced by items in section 12.
AS 21.36.170 has been moved to another chapter - see section 13.
AS 21.36.180 has been moved to another chapter - see section 16.
AS 21.36.190 has been moved to another chapter - see section 15.
AS 21.36.210-310 have been moved to another chapter - see section 17.

Section 19. This section should be revised to July 1, 1974.

HOUSE JUDICIARY COMMITTEE

MINUTES - 1974

CHAIRMAN: REPRESENTATIVE CLEM TILLION

MEMBERS: REPRESENTATIVE MILDRED BANFIELD, REPRESENTATIVE HELEN BEIRNE, REPRESENTATIVE GENIE CHANCE, REPRESENTATIVE HUGH MALONE, REPRESENTATIVE RICHARD MCVEIGH, AND REPRESENTATIVE JOSEPH ORSINI.

LEGAL COUNSEL: Mr. Randolph Berry

STAFF ASSISTANT: Merle A. Mason (Mrs.)

SECRETARY: Sybil H. Davis

Eighth Alaska State Legislature
Second Session - January 21, 1974 -
April 26, 1974

The House Judiciary Committee was called to order by Chairman Tillion at 2:10 p.m. in the House Chambers on the 21st. of October.

Members present were Tillion, Malone, Chance, McVeigh, Banfield, Beirne, and Orsini.

HB 7

The Chairman stated that the committee would be considering House Bill No. 7 - Common Purchasers of oil. Mr. Will Condon will be the first to testify in favor of this bill. He will give the state's position on why we need this bill as written.

Mr. Condon said that the common purchaser provisions in existing law that were part of the 1972 oil package are contained in the Right-of-Way Leasing Act, sections 120(4) and 120(5) of that Act.

In exchange for crossing state lands one of the covenants that the lessee had to agree to was to become a common purchaser of oil or gas and section 120 (4) indicates that common purchaser as defined by that section meant that any lessee would have to buy all oil for common purchase and another possible reading of this is that the "common purchaser" is the common purchaser meaning from the states that have that. If you do buy you have to buy from all offerers in proportion to what they are offering according to your needs. You have to buy say 50 from each offerer instead of 100 from one seller.

It is possible that the way this should be read, because you are a pipeline, and each offerer offers 100 bbls., you have to take the 200 bbls and do what you want with it. If this is correct, then, we are doing something different from what any state has attempted to do. This is a compulsory purchaser provision. In that case, our new proposed bill with respect to oil, is narrowing the scope of the bill. Quite clearly the common purchaser act does not require you to purchase if not already in the business of purchasing. The new proposed bill would require somebody who becomes a common purchaser because he was discriminating to have to buy on a prorata basis. Mr. Lipton said that by this we were narrowing the scope of the bill.

Mr. Condon said he felt they were widening it because this applies to any purchaser in the state, and not just a pipeline owner. The pipeline companies in Alaska don't happen to purchase any oil. We are making it apply to a wider class of people with respect to crude oil. If we were requiring them to become compulsory purchasers--no other state has ever done this. This poses a significant legal risk. Take for instance, natural gas, this is not requiring them to be included in this. I have been questioned about this before, and the comment I would make is that I would go back and do some research of the law. The State of Kansas is an example. They are regulated by the FPC and in that case the ruling was that the state of Kansas moved into an area preempted by Federal statute. You don't have the same thing in the oil area. It is set up in a different way. You don't have any legal pro-lems, in our judgment, requiring a purchaser of oil to become a common purchaser. The only other comment