

January 10, 1994

CERTIFICATION

Senator Taylor moved and asked unanimous consent that the journal for the one hundred twenty-first legislative day, the Final Supplement for the First Session of the Eighteenth Legislature and Senate Supplement No. 7 be approved as certified by the Secretary. Without objection, it was so ordered.

President Halford appointed Senator Rieger and Senator Ellis to notify the Governor that the Senate was ready to do business.

President Halford appointed Senator Kelly and Senator Zharoff to notify the House that the Senate was ready to do business.

MESSAGES FROM THE GOVERNOR

Message of January 4 was read, stating:

Under the provisions of Article III, Section 18 of the Alaska Constitution, I am requesting the opportunity to address a joint session of the Eighteenth Alaska State Legislature on Tuesday, January 11, 1994, at 8:00 p.m. for presentation of the State of the State Address and Thursday, January 13, 1994, at 8:00 p.m. for presentation of the State of the Budget Address.

I would like to outline for the Legislature policy and budget matters that lie before us. We can then proceed with our work as expeditiously as possible.

Thank you for your cooperation in this effort. I look forward to a successful session. With best regards.

Senator Kelly and Senator Zharoff returned from the House and stated the Speaker was ready to work with the Senate in a cooperative spirit.

January 10, 1994

MESSAGES FROM THE HOUSE

Message of January 6 was read, stating the House respectfully requests the Senate to meet in Joint Session in the House Chamber on Tuesday, January 11 at 8:00 p.m. to receive the Governor's State of the State Address, and Thursday, January 13 at 8:00 p.m. to receive Governor Hickel's State of the Budget Address.

Senator Taylor moved and asked unanimous consent that the Senate accept the House invitation. Without objection, it was so ordered.

The Secretary was requested to notify the House.

Representative Phillips and Representative Ulmer called upon the Senate to state the House was ready to do business and wished the Senate well.

Senator Rieger and Senator Ellis returned from informing the Governor and stated the Governor wished the Senate well.

RECESS

Senator Salo announced a minority caucus upon recess.

Senator Taylor moved and asked unanimous consent that the Senate stand in recess to a call of the Chair. Without objection, the Senate recessed at 10:30 a.m.

AFTER RECESS

The Senate reconvened at 3:10 p.m.

COMMUNICATIONS

Letter dated January 10 was read, stating:

Dear Senator Halford:

I found the process used by the Ethics Committee to fall far short of the constitutional protections guaranteed every citizen of this nation and, therefore, do not agree with the committee's conclusions.

However, in the interest of getting on with the important business of representing my constituents, I am prepared to accept the committee's recommendations. To that end please consider this letter my resignation from the chairmanship of the Rules Committee effective immediately.

Sincerely,
/s/
Senator George Jacko

SPECIAL COMMITTEE REPORTS

The Select Committee on Legislative Ethics Decision C(93)-1 was before the Senate at this time.

Senator Taylor moved that the Select Committee on Legislative Ethics Decision C(93)-1, dated November 12, 1993 be spread in the Supplemental Journal.

Senator Duncan objected, then withdrew his objection. There being no further objections, the decision will be in Senate Supplement No. 8.

Senator Taylor moved that the Senate adopt the recommendations of the Senate Subcommittee of the Select Committee on Legislative Ethics set out in Decision C(93)-1 and, hereby, impose the sanctions on Senator George Jacko as recommended by the Select Committee:

(1) Senator Jacko is removed from all committee chair positions and appointments to statewide, regional and national committees, and he shall not be reappointed during the remainder of his term in office. The appointments include:

The Citizen's Advisory Commission on Federal Areas,
The Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives,
All committees of the National Conference of State Legislatures, the Western Legislative Conference or the Council of State Governments,
The Senate Economic Development Task Force, and
The Pacific Fisheries Legislative Task Force.

(2) Senator Jacko is prohibited from traveling out-of-state at state expense during the remainder of his legislative term of office;

(3) Senator Jacko is required and directed to attend and satisfactorily complete, at his own expense, the two-phased, court sanctioned Male Awareness Program, which includes training on anger management, stress management, problem solving, and communications skills as they relate to the abuse and control of partners;

(4) Senator Jacko is formally censured and placed on probation for the remainder of his term.

Senators Duncan, Kerttula, Adams, Donley, Ellis, Lincoln, Little, Salo, Zharoff offered Amendment No. 1 to the motion:

Subsection 1: After "The Pacific Fisheries Legislative Task Force"
Add: "Alaska Seafood Marketing Institute"

Senator Duncan moved for the adoption of Amendment No. 1. Senator Taylor objected.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

"Shall the recommendations of the Select Committee on Legislative Ethics contained in Decision C(93)-1, 11/12/93, be adopted?"
Amendment No. 1 to Motion

YEAS: 9 NAYS: 11 EXCUSED: 0 ABSENT: 0

Yeas: Adams, Donley, Duncan, Ellis, Kerttula, Lincoln, Little, Salo, Zharoff

Nays: Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

and so Amendment No. 1 failed.

The question being: "Shall the Senate adopt the recommendations of the Select Committee on Legislative Ethics contained in Decision C(93)-1?" The roll was taken with the following result:

"Shall the recommendations of the Select Committee on Legislative Ethics contained in Decision C(93)-1, 11/12/93, be adopted?"

YEAS: 20 NAYS: 0 EXCUSED: 0 ABSENT: 0

Yeas: Adams, Donley, Duncan, Ellis, Frank, Halford, Jacko, Kelly, Kerttula, Leman, Lincoln, Little, Miller, Pearce, Phillips, Rieger, Salo, Sharp, Taylor, Zharoff

and so, the recommendations were adopted and are implemented at this time.

INTRODUCTION AND REFERENCE OF SENATE RESOLUTIONS

SCR 11

SENATE CONCURRENT RESOLUTION NO. 11 by SENATOR DUNCAN,

Proposing amendments to the Uniform Rules of the Alaska State Legislature relating to certain committee meetings held outside of the state capital and to recess of the legislature during the period the meetings are held; and providing for an effective date.

was read the first time and referred to the State Affairs, Judiciary and Finance Committees.

SJR 36

(Prefile released January 3, 1994)

SENATE JOINT RESOLUTION NO. 36 by SENATORS KELLY, SALO, PEARCE, ZHAROFF, SHARP, JACKO, Little,

Proposing amendments to the Constitution of the State of Alaska requiring that candidates for governor and candidates for lieutenant governor receive more than 50 percent of the votes cast to be elected and changing the term of office of the governor and the lieutenant governor.

was read the first time and referred to the State Affairs, Judiciary and Finance Committees.

SJR 37

(Prefile released January 3, 1994)

SENATE JOINT RESOLUTION NO. 37 by SENATOR ELLIS, Little, Zharoff,

Proposing amendments to the Constitution of the State of Alaska relating to elections of the governor and lieutenant governor and changing the term of office of the governor and the lieutenant governor.

was read the first time and referred to the State Affairs, Judiciary and Finance Committees.

SJR 38

(Prefile released January 7, 1994)

SENATE JOINT RESOLUTION NO. 38 by SENATOR ELLIS,

Proposing amendments to the Constitution of the State of Alaska relating to revenues from natural resources, the Alaska permanent fund, the appropriation limit and the budget reserve fund; and providing for an effective date for the amendments.

SENATE JOURNAL SUPPLEMENT

January 10, 1994

Monday

No. 8

SENATE SUBCOMMITTEE
OF THE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
OF THE
ALASKA STATE LEGISLATURE
DECISION C(93)-1

SENATE SUBCOMMITTEE
OF THE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
OF THE
ALASKA STATE LEGISLATURE

ANCHORAGE, ALASKA

In re: SENATOR GEORGE JACKO

DECISION
C(93)-1

GENERAL

On November 8, 9 and 10, 1993, the Senate Subcommittee of the Select Committee on Legislative Ethics held public hearings under AS 24.60.170(j) regarding five charges of violations of the Ethics Law against Senator George Jacko. On November 10 and 11, 1993, the Subcommittee deliberated on the charges, the testimony and the evidence submitted. The following determinations and findings are the result.

USE AND ATTEMPTED USE

The Subcommittee asked for briefs on Senator Jacko's assertion that none of the ethics statutes charged in the present case have language prohibiting or punishing attempts. After reviewing briefs from both counsels, the Subcommittee finds that to prohibit the results or gain, but not the behavior or attempts to obtain same, would render the statute ineffective. It would fly in the face of the clear language in the legislative purpose of AS 24.60.010 of the previous ethics statute and AS 24.60.010 of the current statute. Therefore, use of public office, as used in the former AS 24.60.030(a) and use of public funds, facilities, equipment, services, or other government assets or resources as used in the current AS 24.60.030(a)(2), includes attempted use.

CHARGE I

The Subcommittee finds that Charge I against Senator George Jacko:

That during the 1991 legislative session then Representative George Jacko used or attempted to use his official position to obtain a private gain by seeking sexual favors from Ilona Barber, a legislative page, in violation of AS 24.60.030(a), the Ethics Law then in effect.

has been proven by clear and convincing evidence.

Specifically, we find:

1. The events occurred within several hours of the end of the 1991 regular legislative session.
2. Senator George Jacko was then a Representative.
3. Ilona Barber was 17 and was employed as a House page during the 1991 session.
4. In the early morning hours after the end of session, Senator Jacko went to the residence of Ilona Barber uninvited.
5. Senator Jacko knocked on the door and Ilona Barber opened it. She permitted his entry into her residence and allowed him to remain because he was a representative and she was a page.
6. Senator Jacko touched Ilona Barber on her shoulders and waist. These touches were uninvited, unwelcome and constituted sexual advances.
7. These sexual advances constituted the seeking of sexual favors. Sexual favors are a form of private gain under AS 24.60.030(a), the Ethics Law then in effect.
8. Senator Jacko attempted to exploit the power advantage he had because of his legislative office to gain sexual favors from Ilona Barber. This action in using his official position constituted use of his public office under AS 24.60.030(a).

Charge II

We find that Charge II against Senator Jacko:

On or about January 16, 1993 Senator George Jacko used or attempted to use a government asset or resources (his legislative office) for a non-governmental purpose and/or his private benefit by asking representatives of the Juneau Police Department to assist him in obtaining access to the dwelling of Heather Bradner in violation of AS 24.60.030(a)(2).

has been proven by clear and convincing evidence.

Specifically, we find:

1. The events occurred on the morning of January 16, 1993. Senator Jacko was a Senator at the time.
2. Senator Jacko believed that Heather Bradner was in her room at the Driftwood Inn.
3. Senator Jacko wanted to gain access to Ms. Bradner's room for his private benefit.

4. Senator Jacko took several steps to gain access to Ms. Bradner's room: calling, knocking vigorously, attempting to get a key to her room, and asking Sergeant Cornell of the Juneau Police Department in person to assist him. These steps were unsuccessful.

5. Senator Jacko spoke to the Juneau Police Department on the phone after his other efforts. He identified himself as a Senator, Ms. Bradner as a legislative employee and his associate, and said that the matter was not personal, but confidential, and had to do with state government. He was not so impaired by alcohol that he did not know what he was saying.

6. Senator Jacko attempted to use his legislative office to get the Juneau Police Department to give him assistance. Attempted use of his legislative office was the use of a government asset or resource under AS 24.60.030(a)(2).

Charge III.

We find that Charge III against Senator Jacko:

That during the 1992 legislative session then Representative George Jacko used or attempted to use his official position for private gain by seeking sexual favors from Julia Hassler in violation of AS 24.60.030(a), the Ethics Law then in effect.

was not proven by clear and convincing evidence.

Specifically, we find:

1. The events occurred within several hours of the end of the 1992 legislative session.
2. Senator Jacko was then a Representative. Julia Hassler was a recent graduate of the University of Alaska Fairbanks.
3. Julia Hassler was ill and accepted an offer from Senator Jacko to give her a ride back from the Capitol to her hotel, the Baranof. Before doing so, Senator Jacko drove her to the Driftwood Inn, where Ms. Hassler accompanied him to his apartment. Once in the apartment, Senator Jacko touched Ms. Hassler and offered her a back rub. Senator Jacko was seeking sexual favors with these unwelcome sexual advances. Sexual favors are a form of private gain under AS 24.60.030(a), the Ethics Law then in effect.
4. However, the record does not support, by clear and convincing evidence, that Senator Jacko used, or attempted to use, his official position or his public office, in his pursuit of sexual favors from Julia Hassler.

Charge IV

We find that Charge IV against Senator Jacko:

During the commission of the incident described in Charge III, then Representative George Jacko offered to provide state property (employment) in exchange for a private gain in violation of AS 24.60.120, the Ethics Law then in effect.

was not proven by clear and convincing evidence.

Specifically, we find:

1. The events occurred within several hours of the end of the 1992 legislative session.
2. Julia Hassler had come to Juneau on this occasion to look for work and observe the end of the session. Senator Jacko knew she was looking for work in Juneau in state government.
3. Senator Jacko said to Julia Hassler that he would not hire her in his office because he wanted to date her. The record does not support by clear and convincing evidence that he promised to get her a job elsewhere.
4. When Senator Jacko drove Ms. Hassler back to the Baranof, after making unwelcome sexual advances to her in his apartment, he told her to "keep this incident in mind." Although this may have been either a threat, or an offer of a job for Ms. Hassler if she acquiesced in future advances, the record does not support by clear and convincing evidence that he offered to provide her employment in exchange for his private gain under AS 24.60.120, the Ethics Law then in effect.

Charge V

We find that the charge against Senator Jacko:

During the 1991 legislative session then Representative George Jacko used or attempted to use this official position on several occasions to obtain a private gain by offering to compromise his legislative duties in exchange for the companionship of Christine Underwood, a legislative employee, in violation of AS 24.60.030(a), the Ethics Law then in effect.

has been proven by clear and convincing evidence.

Specifically, we find:

1. The events occurred during the 1991 legislative session.
2. Senator Jacko was then a Representative. Christine Underwood was then a legislative aide for Representative Tom Moyer.

3. Christine Underwood was interested in the passage of House Bill 7 (HB7) and the defeat of Senate Bill (SB 32); Senator Jacko knew of her interest.

4. Senator Jacko was interested in dating Christine Underwood; she was not interested in dating him.

5. On April 24, 1991, the House was debating HB7, the Healthy Student Bill, which Ms. Underwood wanted to see passed with a mandate intact.

6. Senator Jacko offered to trade an affirmative vote for HB7 for a dinner date with Ms. Underwood three times, in person, on the phone and in a note, Plaintiff's Exhibit 4.

7. Representative Jerry Mackie voted for an amendment to HB7 which would have removed the mandate Ms. Underwood wanted preserved. Later Representative Mackie stated in debate that he had changed his position on the bill. He then voted for its passage. Subsequently Senator Jacko sent Ms. Underwood a note, Plaintiff's Exhibit 5, indicating that he had obtained Representative Mackie's vote for Ms. Underwood's desired position and therefore he should be entitled to more than dinner. ("So now were're [sic] beyond dinner - Right"). There is no evidence that Representative Mackie in fact changed his vote because of any action by Senator Jacko.

8. Senator Jacko made numerous efforts to gain the companionship of Ms. Underwood; such companionship would have been a private gain under AS 24.60.030(a), the Ethics Law then in effect. The proposed exchanges of votes for dates compromised his legislative duties and were uses of his public office for private gain, under AS 24.60.030(a).

9. There is not clear and convincing evidence in the record that Senator Jacko in fact changed his vote to suit Ms. Underwood's interests.

COOPERATION

Under AS 24.60.170(k), the committee may comment on the subject's cooperation with the committee. Although Senator Jacko has cooperated with the procedural aspects of the investigation and hearing, the committee finds that Senator Jacko was not truthful in parts of his sworn testimony before the committee, nor has he accepted any responsibility for his actions.

SANCTIONS

Under AS 24.60.170(k) and AS 24.60.174, the committee recommends sanctions against a legislator found to have violated the Ethics law. In considering the sanctions to be recommended, the committee believes that expulsion is the most severe penalty and should be reserved for the most serious offense. As reprehensible as Senator Jacko's violations have been, they are not the most serious offenses. In addition, the committee considered the fact that these attempts to use his position did not succeed. The committee has considered the multiple violations in these recommendations. The committee has kept in mind public perception and constituent representation. The committee's findings regarding Senator Jacko's cooperation described above were also a part of the consideration.

The committee recommends that the Senate levy the following sanctions on Senator Jacko:

- A. Senator Jacko should be stripped of all committee chair positions and any Senate appointments to statewide, regional and national committees, and should not be reappointed during the remainder of his term.
- B. Senator Jacko should not be allowed any out-of-state travel at state expense during the remainder of his term.
- C. Senator Jacko should be required to attend and complete, at his expense, the two-phased, court sanctioned Male Awareness Program, which includes; training on anger management, stress management, problem solving, and communication skills as they relate to the abuse and control of partners.
- D. The Senate should issue a formal censure of Senator Jacko.
- E. The Senate should consider Senator Jacko to be on probation for the remainder of his term.

DATED: 11/12/93

BY: 

Joseph P. Donahue, Chairman
Select Committee on Legislative Ethics
Senate Subcommittee

SENATE JOURNAL

ALASKA STATE LEGISLATURE

EIGHTEENTH LEGISLATURE - SECOND SESSION

Juneau, Alaska

Tuesday

January 11, 1994

Second Day

Pursuant to adjournment the Senate was called to order by President Halford at 11:10 a.m.

The roll showed all members present.

The prayer was offered by the Chaplain, Father Herbert C. McMurtry of the Holy Trinity Episcopal Church. Senator Lincoln moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

O Almighty God by Your Grace we live in a state whose beauty, resources and opportunities are beyond our grasp and understanding. Deliver us from the tyranny of trifles. May we give our best thought and attention to what is important, that we may accomplish the heavy work that faces us. May Your Holy Spirit be present with us that we may be spared from the indecision that wastes time, diminishes our peace, reduces our efficiency, and multiplies our troubles. In Thy Holy Name we pray.

Amen.

Senator Zharoff led the Senate in the pledge of allegiance.

CERTIFICATION

Senator Taylor moved and asked unanimous consent that the journal for the first legislative day and Senate Supplement No. 8 be approved as certified. Without objection, it was so ordered.

January 11, 1994

MESSAGES FROM THE GOVERNOR

Letter of January 10, 1994 was read, stating in accordance with AS 39.05.080 and Article III Sections 25 and 26 of the Alaska Constitution, I submit the following name for legislative confirmation of appointment to the position noted:

University of Alaska Board of Regents

Scott A. Otterbacher - Palmer (Student Member)

Appointed 05/31/93, Expires 05/31/95

The appointment was referred to the Health, Education and Social Services Committee.

The resume for this appointment has been submitted to the Offices of the Senate Secretary and the House Clerk.

RECESS

Senator Taylor moved and asked unanimous consent that the Senate stand in recess for the purpose of a Committee on Committees meeting. Without objection, the Senate recessed at 11:14 a.m.

AFTER RECESS

The Senate reconvened at 11:25 a.m.

SPECIAL COMMITTEE REPORTS

January 11, 1994

Dear Mr. President:

Your Committee on Committees has met and submits to the Senate for its consideration the following change to the original Committee on Committees report dated January 11, 1993:

RULES COMMITTEE

Senator Halford replaces
Senator Jacko as Chair

January 11, 1994

The report was signed by Senator Halford, Chair and concurred in by Senators Jacko, Pearce and Taylor. Senator Zharoff signed "no recommendation".

Senator Taylor moved that the Committee on Committees Report be adopted. Senators Duncan, Ellis objected.

Senator Duncan called the Senate. President Halford stated the call was satisfied.

The question being: "Shall the Committee on Committees Report dated January 11, 1994 be adopted?" The roll was taken with the following result:

"Shall the Committee on Committees Report dated January 11, 1994 be adopted?"

YEAS: 11 NAYS: 9 EXCUSED: 0 ABSENT: 0

Yeas: Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

Nays: Adams, Donley, Duncan, Ellis, Kerttula, Lincoln, Little, Salo, Zharoff

and so, the Committee on Committees Report was adopted.

Senator Salo gave notice of reconsideration.

INTRODUCTION AND REFERENCE OF SENATE BILLS**SB 240**

SENATE BILL NO. 240 by SENATOR PEARCE, entitled:

"An Act relating to an optional municipal tax credit for costs of certain river habitat protection improvements."

was read the first time and referred to the Community and Regional Affairs, Resources and Finance Committees.