

ORIGINAL

1 IN THE SUPREME COURT OF THE UNITED STATES

2 - - - - -x

3 RONALD M. ZOBEL AND PATRICIA L. :
4 ZOBEL, :
5 :
6 :
7 :
8 :
9 :
10 :
11 :
12 :
13 :
14 :
15 :
16 :
17 :
18 :
19 :
20 :
21 :
22 :
23 :
24 :
25 :
-x

Appellants

No. 80-1146

v.

THOMAS WILLIAMS, COMMISSIONER OF
REVENUE, AND ALASKA

8 - - - - -x

9 Washington, D.C.

10 Wednesday, October 7, 1981

11 The above-entitled matter came on for oral argument

12 before the Supreme Court of the United States at

13 10:02 a.m.

14 APPEARANCES:

15 MARK A. SANDBERG, ESQ., Anchorage, Alaska; on behalf of
16 the Appellants.

17 AVRUM M. GROSS, ESQ., Special Counsel to the Attorney
18 General of Alaska, Juneau, Alaska; on behalf of the
19 Appellees.

20 - - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C O N T E N T S

<u>ORAL ARGUMENT OF</u>	<u>PAGE</u>
MARK A. SANDBERG, ESQ., on behalf of the Appellants	3
AVRUM M. GROSS, ESQ., on behalf of the Appellees	19

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

CHIEF JUSTICE BURGER: Zobel against Williams.

Mr. Sandburg, you may proceed whenever you're ready.

ORAL ARGUMENT OF MARK A. SANDBERG, ESQ.,

ON BEHALF OF THE APPELLANTS

MR. SANDBERG: Thank you.

Mr. Chief Justice, and may it please the Court:

This is an appeal from a decision of the Alaska Supreme Court. That decision declared constitutional a statute which distributes income from Alaska's permanent fund based solely on the duration of the residency of the recipient.

The fund itself was set up in 1976 as a respository for surplus revenues. In 1980, some four years after the fund was created, this statute was passed, and it proposes to allocate one-half of the income of the fund. It is this statute and not the existence of the fund itself which the Appellants challenge.

The case is unlike every other durational residency case which has come before this Court. In those cases the durational residency requirement was being used as a test; it was being used as a test of domicile. Here the Appellants are unquestioned Alaskans. Here it's not being used as a test. Here it's simply being used to assign legal

1 status to persons who are unquestionably Alaskans.

2 QUESTION: Mr. Sandberg, a couple of questions to
3 straighten me out. Do you know of any other case where a
4 state has been paying out, in effect issuing a dividend to
5 residents?

6 MR. SANDBERG: No, sir, I do not.

7 QUESTION: And suppose a ten-year resident leaves
8 for five years and then come backs. Would he have to start
9 all over again under your system?

10 MR. SANDBERG: Well, there's a series of
11 regulations that have been promulgated, and I forget
12 precisely what they say, but there's a formula which would,
13 I believe -- and Mr. Gross will correct me if I am wrong --
14 but I believe that he would basically pick up where he left
15 off, but he certainly would not get credit for the time he
16 was away.

17 QUESTION: If Alaska paid an equal dividend -- I
18 call it that; it's in quotation marks -- to every resident,
19 you wouldn't be here.

20 MR. SANDBERG: That is true. That is true. In
21 other words, this case, although I have personal doubts
22 about the wisdom or validity of giving money away to begin
23 with, that's not what this case is about. And we haven't
24 argued that, and we've not attempted to present that issue.

25 QUESTION: And may an Alaska resident qualify even

1 though he's never paid a dime in taxes?

2 MR. SANDBERG: That's right.

3 QUESTION: And if a young man were 18 now would he
4 qualify even though he never voted?

5 MR. SANDBERG: That's right.

6 QUESTION: So that a family of five would get five
7 shares based on their respective units.

8 MR. SANDBERG: That's right. A family of five
9 would, as long as they were all adults -- children are not
10 included in the plan -- but as long as they were all adults,
11 a family of five would accrue five separate shares.

12 QUESTION: Children are not included then.

13 MR. SANDBERG: That's right. No one under 18
14 participates in the plan.

15 QUESTION: What if one became 18 two years ago,
16 would he have two units?

17 MR. SANDBERG: No. He would have 20, but he would
18 not receive -- well, if someone were 17 this year, for
19 example, he would receive nothing. If he became 18 next
20 year, he would receive 18 units, but he would not receive
21 the 17 that he would have received this year. In other
22 words, it's not put in a trust fund anywhere for him; they
23 simply don't receive it.

24 If the right of interstate migration and the right
25 to acquire citizenship in the state in which one resides

1 mean anything, they must mean that a state is not free to
2 hand a new migrant a number at the border and say here, this
3 number is going to determine your legal status in our local
4 tax system for as long as you remain here.

5 Durational residency requirements are sometimes
6 permissible as a test of the bona fides of a claim of state
7 citizenship, but the constitutional minimum has to be that
8 at some point the test is over. At some point the new
9 resident has to acquire full, equal and undifferentiated
10 citizenship the same as all other citizens of the state
11 possess.

12 That very point was recognized by this Court 110
13 years ago in the Slaughterhouse cases when the Court
14 observed that the 14th Amendment itself created a
15 substantive federally guaranteed right to become a citizen
16 of any state through bona fide residence with the same
17 rights as other citizens of that state.

18 The Constitution doesn't allow a state to have
19 classes of citizens. Ranking the citizenry based upon when
20 they acquired their citizenship we believe is a direct
21 infringement on the right of interstate migration.

22 QUESTION: What about classes of citizens who are
23 denied their right to vote because of felony convictions?

24 MR. SANDBERG: Well, this Court has obviously
25 dealt with that question on a number of occasions, and it

1 has -- as I recall, what it said was that the 14th Amendment
2 expressly allowed that. Here there's no analogous
3 provision, we believe.

4 QUESTION: So your statement isn't categorically
5 true.

6 MR. SANDBERG: That's correct. We certainly don't
7 believe that this is a permissible classification of
8 citizens, though. It is true that felons do indeed enjoy
9 less civil rights than other people.

10 QUESTION: Counsel, is it your position that if
11 the period of time were, let's say, a year before one could
12 get the full amount, that that would be a reasonable time
13 and therefore a valid provision? Is that your position?

14 MR. SANDBERG: I think that's right. We're not
15 questioning the state's ability to impose a waiting period
16 as one element of proving domicile.

17 QUESTION: How long?

18 MR. SANDBERG: Well, that in itself is a
19 constitutional question, and that's the question that we
20 believe Shapiro and Maricopa County and Sosna were about.

21 QUESTION: Thirty days, sixty days, something like
22 that might be all right?

23 MR. SANDBERG: That's right. And in fact, the
24 cases certainly seem to suggest that perhaps up to a year
25 depending on the nature of the individual interest and the

1 state interest being asserted.

2 QUESTION: What was the time in Shapiro against
3 New York?

4 MR. SANDBERG: Well, it was a year, which was
5 struck down there.

6 QUESTION: One year.

7 MR. SANDBERG: Yes.

8 QUESTION: So one year was too much.

9 MR. SANDBERG: For the welfare interest, that's
10 right, because that was a significant individual interest.
11 In other cases the Court, for example, has suggested that a
12 year might be appropriate for higher education.

13 QUESTION: Mr. Sandberg, I think I heard you say
14 that you thought this whole case was settled by a sentence
15 in the 14th Amendment. Which sentence?

16 MR. SANDBERG: The first sentence. The first
17 sentence of the 14th Amendment creates the right to be a
18 state citizen. It's a federally secured right. That
19 sentence was intended to overrule Dread Scott and make
20 people citizens of the state in which they resided, as a
21 matter of federal law.

22 QUESTION: It went a little further. Dread Scott
23 was only about Negroes, but the 14th Amendment brought
24 everybody in.

25 MR. SANDBERG: That certainly is our view of the

1 situation, and that's the way the law's developed.

2 QUESTION: Everybody got citizenship at the same
3 time.

4 MR. SANDBERG: That's right. And the citizenship
5 which the 14th Amendment granted in our opinion is the same
6 citizenship that was enjoyed by persons who were able to
7 claim citizenship without reference to the 14th Amendment
8 before its passage.

9 QUESTION: Yes, but your Slaughterhouse cases also
10 said this only applied to the newly freed slaves.

11 MR. SANDBERG: Well, that's --

12 QUESTION: Which you think was wrong.

13 QUESTION: You have to.

14 MR. SANDBERG: Of course I think that's wrong.

15 QUESTION: How about the second sentence of the
16 amendment: "Nor shall any state deprive any person of life,
17 liberty or property." Does that give you any help or
18 support?

19 MR. SANDBERG: We have not specifically advocated
20 that as a basis, and I guess I honestly would have to
21 concede that I don't know.

22 QUESTION: Do you make an equal protection
23 argument?

24 MR. SANDBERG: Yes, we do.

25 QUESTION: So you do rely on that last clause.

1 MR. SANDBERG: That's right. We say that this is
2 a substantive violation of the right to acquire citizenship,
3 and we also say it is a fundamental right strand of equal
4 protection case.

5 QUESTION: Well, can't it be argued that this is a
6 classical case for the application of Justice Brandeis'
7 doctrine in Newstate Ice versus Liebman; that we have now 50
8 experimental laboratories, and Alaska has now a very
9 peculiar situation which has existed since the time of the
10 Klondike days where there have been tremendous resources
11 that have just been squandered away, and they are now making
12 an effort to preserve them, and they should be given some
13 latitude in experimentation?

14 MR. SANDBERG: Well, we think the Constitution
15 can't be different from state to state, and we think that
16 while the state puts this forth as a revolutionary new idea
17 in government, we think it's a very old idea in government.
18 We think the idea that some people have superior legal
19 rights over others is as old as kings and pharoahs. We
20 think it's a converse idea, that all citizens are equal,
21 which is truly revolutionary.

22 QUESTION: Do you think this is comparable to a
23 statute which would provide that the people in this
24 preferred class would pay taxes according to the length of
25 time they lived in the state; in other words, the old

1 residents would pay half as much as the newcomers?

2 MR. SANDBERG: We began this lawsuit by filing
3 against two statutes, and the first of them was almost
4 analogous to the hypothetical which you suggested, and that
5 was struck down on state equal protection grounds. And so
6 yes, I certainly think that would be analogous to this.

7 QUESTION: This is sort of an anticipatory refund,
8 isn't it, in your view?

9 MR. SANDBERG: I suppose that's right. What it
10 really is in our view is a way of rewarding long-term
11 residents simply for being long-term residents, and we
12 believe that that's constitutionally impermissible. And
13 while the state does assert that it serves various other
14 purposes, in our view -- certainly I would never say that I
15 don't believe that, but what I would say is that it's
16 remarkable that it serves those only indirectly, but it's
17 perfectly fitted to an impermissible purpose, and that's
18 recognizing past contributions of the citizenry.

19 QUESTION: Mr. Sandberg, I don't understand why
20 the first sentence of the 14th Amendment answers the
21 question. I gather the one-year resident of the state is
22 just as much a citizen of the state by force of that first
23 sentence as is the ten-year resident of the state, isn't he?

24 MR. SANDBERG: I'm sorry. The one-year resident,
25 if you imposed the one-year waiting requirement?

1 QUESTION: No, no, no. Under the statute I gather
2 a one-year resident gets less of a bonus or whatever this
3 proper label is than does the ten-year resident, but the
4 one-year resident is just as much a citizen of Alaska as is
5 the ten-year resident, is he not?

6 MR. SANDBERG: It's true that he has a driver's
7 license and he votes, but he certainly has less legal
8 rights, and he has less legal rights purely --

9 QUESTION: No. He simply doesn't get as much of
10 this largesse as does the ten-year resident, isn't that it?

11 MR. SANDBERG: He has less legal rights purely
12 because of when he acquired his citizenship. And thus we
13 think you have to do more than call someone a citizen; we
14 think you have to treat them like one.

15 QUESTION: Well, the theory of your case is the
16 combination of the first sentence and the last, is it not?

17 MR. SANDBERG: That's right.

18 QUESTION: That once he's a citizen he may not or
19 she may not be treated in any way different from any other
20 citizen, whether it's on the tax rate imposed or receiving
21 this bonus, as Justice Brennan called it.

22 MR. SANDBERG: Well, one citizen may certainly be
23 treated differently from another when judged by neutral
24 criteria and unrelated to the quality of their citizenship.
25 For example, I'm not standing here telling the Court that if

1 one person gets welfare, everybody's got to get welfare;
2 neither certainly a neutral criterion unrelated to the
3 quality of one's citizenship.

4 But what I am saying is that once a person is a
5 citizen, once they've satisfied a waiting requirement and
6 the test is over, then they cannot be ranked on the basis of
7 the quality of their citizenship or when they acquired it.

8 QUESTION: In the voting area you wouldn't go for
9 giving a 15-year resident 15 votes and a one-year resident
10 one vote.

11 MR. SANDBERG: Obviously not.

12 This Court has repeatedly rejected the idea that a
13 state is free to distinguish between new and old residents
14 in its consistent rejection of the contribution rationale.

15 QUESTION: Mr. Sandberg, I think your clients came
16 into your state in 1978.

17 MR. SANDBERG: That's correct.

18 QUESTION: Would you be making the same arguments
19 if your clients had come into the state in 1975 or 1972?

20 MR. SANDBERG: They would certainly have standing
21 to file that claim.

22 QUESTION: What would be the difference between
23 your position if you were representing the earlier arrivals
24 and the position you take here today?

25 MR. SANDBERG: It would be no different, in my

1 opinion.

2 QUESTION: And the same would be true if you went
3 back to someone who had been there, what, 18 years?

4 MR. SANDBERG: Well, at least theoretically the
5 class is everyone other than the people who were there in
6 1959, but as a practical matter it's perhaps like a
7 reapportionment case that a person at some level achieves
8 enough so that he doesn't want to rock the boat. You may
9 not live in the most overrepresented district, but you don't
10 want to file the lawsuit either.

11 QUESTION: Well, this emphasizes the first
12 statement you made that this is entirely different from any
13 durational residency case we've had.

14 MR. SANDBERG: That's right, because a durational
15 residency requirement here is a lifetime. As long as
16 someone's alive in the state of Alaska who got there before
17 my clients did, they will never achieve the maximum benefit
18 under this plan. So the waiting period here is forever.

19 QUESTION: But there is no more penalty imposed on
20 your client in terms of theory than imposed on any resident
21 who came in subsequent to the first year.

22 MR. SANDBERG: That's right.

23 QUESTION: Well, and as long as someone is alive
24 who arrived before your clients did, they will be paying
25 more taxes to Alaska than your clients will, will they not?

1 MR. SANDBERG: That's entirely possible.

2 QUESTION: It's possible but not necessarily true.

3 QUESTION: Not because of any statute.

4 MR. SANDBERG: It certainly would have nothing to
5 do with this program if that were true. It's entirely
6 possible that it could be.

7 QUESTION: Well, but it's also possible that these
8 people who have been there 20 years may have never paid a
9 dime in taxes, I suppose, isn't it?

10 MR. SANDBERG: Of course.

11 QUESTION: You may have some Indians or Eskimos
12 who haven't contributed mightily to the economy.

13 QUESTION: Mr. Sandberg, would you find that the
14 state requirements that impose, for example, a seven-year
15 residence requirement before the person can be a candidate
16 for a certain public office to be invalid under your theory?

17 MR. SANDBERG: Personally, I would have decided
18 Chimento differently. That's quite right. I recognize
19 there are a variety of possibilities to explain Chimento,
20 though. One is that the lower court did indeed find a
21 compelling interest for doing that, and it is possible that
22 this Court accepted that. That was simply a summary
23 affirmance, so all we know is that the Court accepted the
24 results. Or it could be that in the political area itself,
25 as with aliens, the rules become somewhat different. I

1 don't know. In my view I would have decided Chimento
2 differently.

3 QUESTION: This Court has not always applied the
4 same test, has it, in determining the validity of durational
5 residence requirements; in other words, a strict scrutiny
6 versus some other level of examination?

7 MR. SANDBERG: That's correct.

8 QUESTION: And where do you think this case ought
9 to fit in the level of scrutiny?

10 MR. SANDBERG: I think that once the state goes
11 beyond imposing a waiting period -- well, first of all, let
12 me address the waiting period.

13 When you have a waiting period, I think it may be
14 appropriate to have a penalty-type analysis or a weighing of
15 competing interests to see how long the waiting period could
16 be; but once you go beyond the waiting period and start
17 classifying people who are unquestionably citizens based
18 solely on when they acquired their citizenship, then I think
19 you ought to demonstrate a compelling interest for doing
20 that.

21 QUESTION: What about age, Mr. Sandberg? Suppose
22 a state in its income tax setup gave someone over 70 a
23 special exemption. Is that valid or invalid?

24 MR. SANDBERG: Oh, I think that's valid, but that
25 has nothing to do with our case as long as they gave it to

1 everyone in the state who was over 70 without regard to when
2 they got there. Then that's simply a regular,
3 straightforward equal protection case concerning age
4 discrimination; and in my view that particular exemption
5 would be valid.

6 QUESTION: Well, they're giving this to every
7 resident of the state. It just differs as to amount.

8 MR. SANDBERG: Well, it's quite true, and the
9 state does argue that everyone participates in the plan;
10 therefore, it must be all right. I've heard them make that
11 argument, but to my way of thinking that's sort of like
12 saying Plessey vs. Ferguson there was no problem because
13 everybody rode the train.

14 The real question is not does everyone participate
15 in the program. It's how do we divide up the participants.
16 And the way they're being divided up here is a way which we
17 suggest is offensive.

18 QUESTION: That's why you rest on your equal
19 protection argument.

20 MR. SANDBERG: That's right.

21 The state advances two purposes in its brief
22 here: stabilizing the population and conserving the fund.
23 We believe that neither of those may fairly be deemed
24 compelling, but interestingly enough, neither of them are
25 even rationally related to the retrospective features of

1 this plan. In other words, awarding for past residents,
2 residents since 1959 --

3 QUESTION: Mr. Sandberg, you used the word
4 "compelling." Does this answer Justice O'Connor's question
5 to you earlier? The level of scrutiny should be compelling
6 state interest?

7 MR. SANDBERG: That's correct.

8 QUESTION: To justify this.

9 MR. SANDBERG: Yes. I think the state should have
10 to demonstrate a compelling state interest to justify this
11 sort of a classification.

12 QUESTION: What is your definition of a compelling
13 state interest?

14 MR. SANDBERG: Well, certainly one that's more
15 significant than stabilizing the population. I think it's --

16 QUESTION: Well, it's one that compels a result,
17 isn't it? Aren't we --

18 MR. SANDBERG: It's where the state is really left
19 with no choice, in my opinion.

20 QUESTION: Sure.

21 MR. SANDBERG: But the only purpose which
22 plausibly explains the 1959 date and the retrospective
23 features of this plan is giving more money to people who
24 live there. It's a perfect fit with that one. It's a very
25 rational relationship. And that's the purpose which this

1 Court has long said was impermissible.

2 QUESTION: Mr. Sandburg, following up on your
3 suggestion that there might be a distinction between
4 prospective and retrospective application, would you say
5 that it was irrational if the program were purely
6 prospective and said after the date of enactment, in order
7 to encourage people to reside in the state, we will have
8 this bonus for long-time residents?

9 MR. SANDBERG: No. I think if the plan began in
10 1980 and ran forward and the appropriate level of review was
11 minimum rationality, which I certainly don't think it is;
12 but if that was the appropriate level of review, then I
13 probably wouldn't be here.

14 But in this country it's never mattered that your
15 family came over on the Mayflower. That may confer social
16 status, but until now that sort of distinction has never
17 conferred legal status.

18 QUESTION: Sometimes in Boston it's pretty
19 important.

20 MR. SANDBERG: But they don't legislate it.

21 If I may, I'd stand down.

22 CHIEF JUSTICE BURGER: Mr. Gross.

23 ORAL ARGUMENT OF AVRUM M. GROSS, ESQ.,

24 ON BEHALF OF THE APPELLEES

25 MR. GROSS: Mr. Chief Justice, may it please the

1 Court:

2 In the end this plan is going to stand or fall on
3 whether I can convey to you the rationality of the dividend
4 distribution system that's used in the plan; and that
5 dividend distribution system is just a part of an overall
6 plan that the State of Alaska is using to deal with a very
7 unusual and unique problem.

8 We have a great deal of temporary oil wealth in
9 the State of Alaska. The state has been poverty-stricken
10 for literally hundreds of year, and we now have, because of
11 the fortuity of oil being discovered on state land, a
12 temporary influx of a great deal of money.

13 QUESTION: Is it on state land or federal land?

14 MR. GROSS: It's on state land, primarily the land
15 in Prudhoe Bay.

16 QUESTION: Why do you say temporary?

17 MR. GROSS: I'm sorry.

18 QUESTION: Why do you say temporary?

19 MR. GROSS: Because it's a finite resource,
20 Justice Brennan.

21 QUESTION: But temporary is a long way off, isn't
22 it?

23 MR. GROSS: No. Temporary is very quick. We're
24 talking 20 to 30 years. That's a popular, I think,
25 misconception, but the field depletes at something like the

1 rate of one percent every 60 days. And there have been no
2 other major oil finds in the State of Alaska, so we are
3 dealing with a resource which for a short period of time
4 will produce several billions of dollars for the state --
5 it's like the gold at the turn of the century -- but then
6 will be gone, forever.

7 And what we are talking about is a system which
8 will avoid repeating Alaska's past, which is great periods
9 of wealth and then total deprivation thereafter.

10 Now, to do that -- I should say that our early
11 start at this problem was not very successful. The state
12 had its first and most major oil lease sale in 1969. It
13 collected from that sale \$900 million in a state that had a
14 budget at the time of roughly \$150 million per annum. And
15 within six years the money was all gone, and government
16 programs which had been established by legislators who were
17 interested in both the pressing needs of the state and their
18 own political futures were running out of funds. The state
19 was on the edge of bankruptcy.

20 What happened then was, of course, that finally
21 the oil money started to come in again, primarily through
22 the construction of the pipeline; and now we are faced with
23 the same problem: a temporary influx of oil dollars, and
24 the problem is how to make them last.

25 Now, to do that we have embarked on a rather

1 unique plan in Alaska. It's never been tried before. The
2 Governor proposed, and the legislature eventually adopted,
3 and the people overwhelmingly passed a constitutional
4 amendment establishing what has been referred to as the
5 Permanent Fund.

6 The constitutional amendment provided that at
7 least 25 percent of the bonuses and royalties from oil would
8 be placed in this fund. The fund itself may not be
9 appropriated for any purpose by the legislature. The only
10 thing that may be used is the interest from the fund.

11 Now, of course, that does two things.

12 QUESTION: Can the state borrow from that fund
13 itself?

14 MR. GROSS: I don't believe the state may borrow
15 from the fund. The fund can certainly be invested in
16 certain programs.

17 QUESTION: Can the fund be invested?

18 MR. GROSS: Yes.

19 QUESTION: Can it be invested in state bonds,
20 which would be another way of putting the same question.

21 MR. GROSS: To my knowledge, no, Justice Burger.

22 The creation of the fund does two things. First
23 of all, of course it saves a portion of the money for the
24 future, 25 percent at a minimum. But more important, it
25 transforms a finite resource into an infinite source of

1 revenue. By restricting the legislature to the use only of
2 the interest on the fund, that interest can continue in
3 perpetuity, at least in theory; so that government programs
4 constructed on it, social programs and the like, can
5 continue long after the oil is gone. Public expectations
6 will be based not on the principle of the fund because that
7 is not appropriated.

8 QUESTION: Well, I assume you're going to relate
9 that program to this issue.

10 MR. GROSS: Yes, I am. Yes, I am.

11 Now, when you set that up, it creates an immediate
12 public and a political conflict. On the one hand you have
13 the legislature which is faced with rather pressing public
14 needs, to say nothing of their own political futures, faced
15 with large infusions of oil wealth. They have use of 75
16 percent of all the oil wealth that comes in, plus the
17 interest from the 25 percent that goes into the Permanent
18 Fund. And on the other hand there is the public interest in
19 trying to preserve as much as this oil wealth for the long
20 term as humanly possible.

21 Now, it's easy to see the political pressures on
22 the legislature to spend the money; we're all familiar with
23 those. But there was no countering political pressure for
24 the legislature to increase the payments into the Permanent
25 Fund, to put more than the 25 percent mandated by the

1 constitutional amendment, and to put more of the oil money
2 in there to be saved for future generations.

3 So the Governor proposed what is I call a unique
4 program, but it's perfectly tailored to this situation. He
5 suggested that since the residents of the state owned the
6 resources, owned the oil resources, that to the extent that
7 oil revenues placed in the Permanent Fund produced income,
8 interest which was surplus to present government needs, that
9 those monies should be distributed directly to the people.

10 Now, it's immediately obvious that when you do
11 that two things happen. The first of all is that since the
12 people will receive dividends directly and only from
13 interest within the Permanent Fund, on monies placed in the
14 Permanent Fund, it puts enormous pressure on the legislature
15 to put as much money in the Permanent Fund as possible. Now
16 people have a personal interest in seeing the Permanent Fund
17 maximized, because they will receive greater dividends the
18 more and more money is placed in the Permanent Fund.

19 And the second thing it does is that it creates in
20 Alaska the type of check on political spending which is
21 present in every other state but not present in ours. For
22 instance, in Kansas if you want to establish a government
23 program, you have to tax for it. You have to impose a tax
24 on the people, and it better be a good government program or
25 you better not impose the tax. There's a political debit to

1 meet the political credit.

2 In Alaska since the legislature can simply fund
3 government programs through the sale of oil leases, which
4 people are sufficiently remote from that they do not really
5 consider their own, that when you transform those oil leases
6 and the money from them into the Permanent Fund and say to
7 the people there's going to be money produced from this oil,
8 now, if it's surplus to the government needs it will be
9 distributed to you in some form, and on the other hand the
10 legislature can spend it.

11 Now, the legislature is free to spend it --

12 QUESTION: Mr. Gross.

13 MR. GROSS: Yes.

14 QUESTION: Can I shorten this a little by saying --

15 MR. GROSS: Certainly.

16 QUESTION: -- That I for one think that the 14th
17 Amendment applied to states with all the money as well as
18 states with no money.

19 MR. GROSS: Oh, I agree with you, Justice Marshall.

20 QUESTION: Well, I think you're all saying that
21 you're in a special position because you've got a lot of
22 money.

23 MR. GROSS: No, not at all. I'm not suggesting
24 that.

25 QUESTION: Okay.

1 MR. GROSS: I'm suggesting that there is a clear
2 public purpose for the distribution of the dividends in the
3 first place. Now, the question -- I tried to establish that
4 because once you get to that point, Justice Marshall, then
5 you are trying to determine how to distribute the dividends,
6 what is the best manner in which to distribute the
7 dividends, certainly consistent with the 14th Amendment.
8 Alaska has no exemption from the 14th Amendment, nor do we
9 claim it.

10 Now, in distributing the dividends the legislature
11 selected a system whereby they tried to make the individual
12 interest in receipt of the dividends identical with the
13 public interest in maintaining a long-term and healthy
14 Permanent Fund.

15 Now, let me take, for example, Justice Marshall,
16 you suggest the 14th Amendment applies, and I would suggest,
17 of course, that the 14th Amendment --

18 QUESTION: I don't suggest it. I insist.

19 MR. GROSS: I agree with you. The 14th Amendment
20 requires, of course, that classifications be rational and
21 rationally related to valid public purposes.

22 Now, I've talked about the public purpose. Now,
23 let's think for a moment about how these dividends could be
24 distributed. I don't think that the 14th Amendment requires
25 necessarily that everyone be treated identically. The

1 candidate in New Hampshire who has to wait for seven years
2 to run for governor is not being treated exactly the same as
3 a candidate who doesn't have to wait. But at the same time
4 it's a rational distinction. What we're talking about is
5 are the distinctions made in this dividend plan rational or
6 are they not rational.

7 Now, let's take a perfectly equal distribution for
8 a moment. Suppose the state determined to distribute
9 dividends one to each resident each year regardless of how
10 long they had lived in the state. Now, if you do that,
11 it's, I think, immediately obvious that, to every resident,
12 that as more and more people come to the State of Alaska, an
13 individual's interest in a dividend distribution, his
14 personal stake in the dividend fund is going to decrease.

15 QUESTION: That's true under your plan, too.

16 MR. GROSS: Yes, but not quite the same way.

17 QUESTION: As more people come in, there's less
18 money to divide.

19 MR. GROSS: Not quite the same way, Justice
20 Stevens.

21 QUESTION: But it is true.

22 MR. GROSS: Yes, it is true, but less,
23 substantially less. You have basically a curve which goes
24 up.

25 Now, all right. So if the feeling is that as more

1 and more people come to the state the individual dividend
2 share will decrease, I think it's fairly obvious --

3 QUESTION: Are you saying that one of the purposes
4 of the plan is to discourage people from coming to Alaska?

5 MR. GROSS: No, not at all.

6 QUESTION: Well, it seems to me that's what you're
7 arguing.

8 MR. GROSS: No, no. I said the purpose of the
9 plan, Justice Stevens, is first of all to provide -- of
10 dividends at all -- is to provide an incentive for the
11 legislature to put a maximum amount of money in the
12 Permanent Fund and to provide a check on legislative
13 expenditure of the oil money.

14 Now, once you have done that, once you have
15 decided that the issuance of dividends is for a valid public
16 purpose, what you are doing is using people's personal
17 desire to get the money as opposed to be using for a
18 government program, let's say, as an incentive to accomplish
19 this fact.

20 All right. You've done that. Now, if you take
21 the dividends and you distribute them on a per capita basis
22 each year, having nothing to do with the length of residency
23 in the state, each person, what you have is a situation
24 where people's psychology, the very incentive that you're
25 using here -- personal desire to get the money -- isn't

1 going to take long that the more people that come, the less
2 they're going to take.

3 Now, they can't stop people from coming, nor is
4 there any desire to stop people from coming. But when you
5 do that, it's going to create some other pressures. It's
6 going to create, for instance, pressures on the legislature
7 to get the maximum money not only in the Permanent Fund but
8 out of the Permanent Fund as quickly as possible; because if
9 they get it now, they don't have to worry about sharing it
10 with five million people who will come to Alaska in ten
11 years or twenty years.

12 Now, if you're saying that, you know, people
13 shouldn't think this way, you may have a point; but I think
14 individuals do think this way when they're looking at money
15 that they're going to receive. So I think that what you're
16 dealing with is people. You would create by distributing
17 dividends in a purely per capita fashion, you would create
18 the following pressures.

19 QUESTION: Isn't that true of all sorts of things
20 the government do, that the more you tend to encourage
21 people to come to your state, the more populated it gets,
22 you generate all sorts of problems.

23 MR. GROSS: No. But there's one difference.

24 QUESTION: It seems to me the argument you're
25 making is one that says we just would like to keep the state

1 about the same density of population as we now have.

2 MR. GROSS: I must be not making myself clear,
3 Justice Stevens. If more people come to a state, they
4 generate more taxes. You know, you can argue about whether
5 there is benefits or detriments from large migrations into a
6 state. But the fact of the matter is that if a state
7 population doubles from two million to four million, in
8 theory your tax base doubles from two million -- you know,
9 from a base produced by two million people --

10 QUESTION: It depends somewhat on whether there's
11 a productivity factor involved there.

12 MR. GROSS: Absolutely.

13 QUESTION: Because if half of them were on relief,
14 it wouldn't help your tax base much, would it?

15 MR. GROSS: No, it wouldn't. No, it wouldn't.

16 QUESTION: Let me ask you another question.
17 Suppose you wanted to encourage -- or have you finished your
18 answer to --

19 MR. GROSS: I just simply wanted to say in
20 conclusion that but in this case we are dealing with
21 revenues produced by a finite resource -- oil. It cannot be
22 increased. No matter how many people come to the state, the
23 amount of money produced by that oil is going to be the same.

24 QUESTION: No. But one of your arguments is that
25 the way in which you manage the money -- that is, either

1 saving it for the long term or distributing it right away --
2 will be influenced by this program.

3 MR. GROSS: That's correct. And my point is that
4 if there's a set amount of money which is going to come out
5 of the oil and you issue the dividends --

6 QUESTION: Let me just throw one other thing on
7 the table, because I don't want to be interrupting you too
8 often on this.

9 Your opponent argues that well, maybe there's
10 rationality applying to the future, but how does any of this
11 justify the fact that at the date of enactment of the
12 statute those who had been there the longest got more. Just
13 be sure you cover that before you finish.

14 MR. GROSS: I will. I would say just quickly that
15 this is not a retroactive plan. It's simply a plan which is
16 put in medias res. I mean it's a plan established. There
17 are no retroactive rights.

18 QUESTION: Well, but you do make the beginning
19 date 1959 instead of the date of enactment.

20 MR. GROSS: That's correct.

21 QUESTION: And what is the state purpose at the
22 date of enactment for saying that a person who has been here
23 since 1959 should get something more than someone who
24 arrived two years ago?

25 MR. GROSS: Exactly. Let me put it this way,

1 Justice Stevens. If the plan is constitutional vis-a-vis
2 1959, you're going to be facing exactly the same questions
3 when you come to the year 2000 and look back. They're the
4 same constitutional issues which are created.

5 So far as the feature of people participating in
6 the plan, a plan was set up by which people qualify for
7 certain benefits, and they qualify whenever they came. A
8 three-year resident will participate in it on a three-year
9 basis.

10 QUESTION: Then are you saying that the
11 constitutionality of your plan would be just the same as if
12 you had a one-time distribution in which you gave a big
13 chunk of money based on length of residence?

14 MR. GROSS: No, it would not be. If it were a
15 one-time plan based on distribution -- based on length of
16 residency, then you would --

17 QUESTION: Well, insofar as you were talking about
18 the retroactive feature of it, it is a one-time plan.

19 MR. GROSS: It goes on every year. Every person
20 -- the Zobel's have been in the state for three years. In 18
21 years they will be in exactly the same position as someone
22 who came in 1958 or '59, and their dividends will increase
23 each year. If no one had that ability, if you could not
24 participate in the program on the same basis as everyone
25 else and increase your dividends just as everyone else

1 increases their dividends, then you would have a one-time
2 distribution which would favor one class of people.

3 QUESTION: But I still don't understand how you
4 can say same basis, "same" in quotes.

5 MR. GROSS: Every citizen --

6 QUESTION: You say that every other sentence. You
7 say "same" basis.

8 MR. GROSS: They have exactly the same rights.

9 QUESTION: And I thought the whole argument in
10 this case was that there wasn't a same basis.

11 MR. GROSS: This is, I think --

12 QUESTION: There were two different bases.

13 MR. GROSS: I think the argument that the
14 Appellants are making, Justice Marshall, proceeds on that
15 assumption, that there is a difference; but --

16 QUESTION: Well, isn't there a difference?

17 MR. GROSS: No. Each party receives --

18 QUESTION: Does everybody get the same amount of
19 money?

20 MR. GROSS: Everybody has the same rights, Justice
21 Marshall.

22 QUESTION: Well, I'm talking about cash in hand.

23 MR. GROSS: No.

24 QUESTION: Does everybody get the same?

25 MR. GROSS: Everybody gets the same over the same

1 period of residency.

2 QUESTION: Well, once again, I look at it with
3 cash.

4 MR. GROSS: Okay.

5 QUESTION: That's what this case is about --
6 cash. You started off by saying you were loaded with cash.

7 MR. GROSS: I think this case, Justice Marshall,
8 is about the participation in a plan where everyone has
9 equal rights to receive the same amount of cash over the
10 same period of residency for certain valid public purposes.
11 That's what the case is about.

12 If you want to look at it on a one-year basis,
13 yes, people get different amounts of cash, just as under
14 welfare systems people get different amounts of welfare
15 depending upon how they meet the criteria. And if it's a
16 valid public purpose for giving some amount of welfare to
17 one person and some to another, that's perfectly valid.

18 And the basic issue here is whether the criteria
19 made in the length of residency to accomplish a valid public
20 purpose is in fact rational. If it is not -- and I gather
21 from Mr. Sandberg's suggestion he recognizes it as rational.

22 QUESTION: Mr. Gross.

23 MR. GROSS: I'm sorry, Justice O'Connor.

24 QUESTION: Do you think that the Shapiro case and
25 the welfare and the hospital case that the Court had to

1 decide would have been decided differently if the
2 beneficiaries got a little bit of welfare the first year and
3 more the second?

4 MR. GROSS: No.

5 QUESTION: Or a little bit of medical care the
6 first year and more the second?

7 MR. GROSS: No. For several reasons.

8 QUESTION: Isn't that what you're arguing?

9 MR. GROSS: No, I don't think so, Justice O'Connor.

10 In the first instance, you must remember that the
11 distinctions made in the Shapiro case, in Maricopa and those
12 cases depended on a number of things, one being that people
13 were divided into two classes -- new residents and everyone
14 else. In this instance everyone is in the same class --
15 people who were born in the State of Alaska, people who
16 moved to the State of Alaska at any time, new, old
17 residents, whatever you call them; they're all subject to
18 the same system. The same distinctions are made between an
19 18-year resident, a 21-year resident, or --

20 QUESTION: The benefit level differs, does it not,
21 depending --

22 MR. GROSS: I'm sorry.

23 QUESTION: The benefit level differs depending on
24 the length of one's residency.

25 MR. GROSS: That is correct.

1 QUESTION: And do you think that the Court would
2 have sustained that kind of a difference in Shapiro or in
3 Memorial Hospital?

4 MR. GROSS: Probably not, Justice O'Connor,
5 because you were dealing with what's basically a fundamental
6 right.

7 QUESTION: All right. Do you recognize or concede
8 that there is a fundamental right to migrate or travel?

9 MR. GROSS: Absolutely.

10 QUESTION: And do you think that Alaska's plan in
11 any way inhibits someone's desire to move or to travel?

12 MR. GROSS: I hardly think so.

13 QUESTION: From Alaska.

14 MR. GROSS: Oh, from Alaska?

15 QUESTION: You don't think there would be a
16 motivation to stay there and earn the thousand dollars
17 instead of move to California?

18 MR. GROSS: I hope so.

19 QUESTION: And lose it?

20 MR. GROSS: I hope so. I don't know any case that
21 this Court has decided that suggests that because a state
22 provides a certain benefit which is unknown elsewhere on any
23 scale, that because someone wants to stay in the state and
24 doesn't want to leave it that that somehow violates the
25 right to migration.

1 QUESTION: The purpose -- is one of the purposes
2 to discourage people from migrating from Alaska?

3 MR. GROSS: I would say it differently. I would
4 say the object is to encourage them to stay; but if you want
5 to turn that around, I suppose that's true.

6 QUESTION: And does that fly in the face of any
7 constitutional right?

8 MR. GROSS: I don't believe so, Justice O'Connor,
9 any more than if one state, for instance, say one state has
10 a welfare system which is double any other state's welfare
11 system. You could say --

12 QUESTION: Or an old age pension?

13 MR. GROSS: Exactly, yes. That makes it so
14 desirable to stay in that state that you don't want to leave
15 that state and go to another state. I think that would be
16 opening a can of worms which has never yet been opened by
17 the Court. It would put states in relative -- you know, any
18 good program would be considered constraining the right of
19 migration from the state.

20 But there's no impact, Justice O'Connor, on the
21 rights of migration into the state. I think that's --

22 QUESTION: Suppose Alaska wanted to encourage
23 people to come there and passed a statute that for the first
24 five years of your residence a new resident after a given
25 date, they would be free from state income taxes or all of

1 the state taxes? Do you think that would pass muster?

2 MR. GROSS: To encourage immigration, in essence?
3 I suppose the public purpose to encourage immigration -- I
4 don't really know, Justice Burger. I don't think any state
5 has done that. It has done it with corporations, of course;
6 and states do provide tax incentives to corporations. I
7 don't know of any state that's ever done it for people.

8 QUESTION: Corporations are persons under the 14th
9 Amendment.

10 MR. GROSS: It's true. I mean, if you take the
11 analogy through, I assume states could do it, but I know of
12 no case that that's ever been tried.

13 QUESTION: Has this Court ever passed on the
14 corporate -- the constitutionality of these corporate
15 benefits?

16 MR. GROSS: Well, the Court has certainly
17 established the widest possible latitude for states in
18 dealing with tax exemptions, and I assume that's that sort
19 of a tax -- if the state determined that it was in the
20 public interest to encourage new business to come to the
21 state, I assume it could make that sort of exemption; but
22 I'm not aware of any case which has been specifically on
23 that point.

24 QUESTION: Mr. Gross?

25 MR. GROSS: Yes.

1 QUESTION: Do you think a state validly could
2 impose an income tax graduated according to the residence of
3 the people in the state?

4 MR. GROSS: I don't know what the public purpose
5 of it would be.

6 QUESTION: Well, your answer is it could not do so
7 validly?

8 MR. GROSS: I doubt it. I think -- I'm sorry.

9 QUESTION: If down the road five years from now
10 Alaska found it necessary to impose an income tax, would not
11 these graduated benefits result in effect in a graduated
12 income tax based on residency?

13 MR. GROSS: I don't believe so.

14 QUESTION: In other words, if you owed under the
15 state income tax a thousand dollars and received dividends
16 for a thousand dollars, the net effect of what you paid the
17 tax would be zero.

18 MR. GROSS: People receive benefits from the state
19 from all sorts of programs which may be rational or not
20 rational as the case may be.

21 QUESTION: Well, your answer to my question is
22 that that would be valid.

23 MR. GROSS: If you determined it on its own
24 merits, this plan has a rational foundation; and the nature
25 of the dividend distribution is rational. Its impact

1 subsequently on another state program I think is -- I don't
2 think you can link the two is what I'm suggesting.

3 QUESTION: You think there's no relationship
4 between the two.

5 MR. GROSS: No. Any more than there would be to
6 any other state benefits a state would be giving out to
7 people that would be rationally supported. I mean certainly
8 a person that receives old age benefits from a state pays
9 less income tax in toto than someone who does not, but
10 because the program is rational and valid, that simply is
11 what happens. It's not a constitutional issue over that.
12 It doesn't result in the income tax being graduated on the
13 basis of age.

14 QUESTION: But you wouldn't distribute old age
15 benefits in accordance with residency duration, would you?

16 MR. GROSS: No, you wouldn't. I'm saying that
17 therefore -- I mean, you have to determine the
18 constitutionality of this program in and by itself. Should
19 you determine that it is constitutional, just as you were
20 determining that old age benefits were constitutional, once
21 you reach that conclusion, the fact that you subsequently
22 impose an income tax wouldn't make it unconstitutional any
23 more than you could say that the income tax was based on age
24 in comparison with old age benefits. I mean, people who
25 received old age benefits pay less tax, but that, you know

1 -- by deduction they pay less tax.

2 QUESTION: Mr. Gross, you keep referring to a
3 rational basis test. What if the Court has to apply a
4 stricter scrutiny to a durational residence scheme such as
5 Alaska's?

6 MR. GROSS: Durational residency, at the outset,
7 Justice O'Connor, I think has been only used by this Court,
8 to my knowledge, in terms of classifying newcomers against
9 oldtimers in terms of states that deny benefits to people
10 who have just arrived as opposed to people who haven't. And
11 I know of no case in which this Court has dealt with a
12 question of residency where it applies to every single
13 person in the state born any length of time and is not
14 singling out newcomers. The compelling state interest test.

15 QUESTION: But the level of benefits is different
16 depending upon residence.

17 MR. GROSS: The people it applies to is
18 different. In all the durational residency cases people are
19 divided into two classes: people who have just arrived in
20 the state and everyone else. In this case --

21 QUESTION: There are 18 levels or 20 levels.

22 MR. GROSS: There are an infinite number of
23 levels, Justice O'Connor. Everyone in this state whether
24 you're born there -- I mean, the majority of people of this
25 state have basically put these distinctions on themselves.

1 This is not some insular group like newcomers that are being
2 dealt with. This is a distinction which has been imposed by
3 the majority of the people of the State of Alaska on
4 themselves. So you're not talking about the kind of
5 situation you deal with in a right to travel case where
6 you're talking about people who travel to the state. This
7 as much applies to people that were born there.

8 QUESTION: Well, do you think that, for instance,
9 voters in a state could adopt by vote a welfare scheme that
10 would determine the level of benefits based on the number of
11 years that the person had lived in the state and have a
12 graduated scale?

13 MR. GROSS: I couldn't think of a valid public
14 purpose for that, Justice O'Connor, whereas here, as I've
15 tried to indicate, we have a complex and rather lengthy
16 scheme to deal with a financial situation in the state which
17 is unique.

18 But to answer your question originally, you asked
19 me what would happen if we came to a compelling state
20 interest. My initial answer was to suggest that it is not a
21 compelling state interest test. Were it to be a compelling
22 state interest, I could not justify it here and would not
23 attempt to. There are other ways, I am sure, that these
24 same ends could be reached or at least attempted to be
25 reached. This is an unusual one in an effort to try

1 something new, in an effort to make this work.

2 You know, I only have a few minutes, and I just --
3 did I answer your question?

4 As I understand the principle which is being
5 advocated here, it is in essence that the state can never
6 make distinctions based on length of residency. That is
7 simply an erroneous statement. I mean, this Court has
8 upheld instances in which the state has done so. In
9 Chimento with the seven-year residency requirement it didn't
10 even find it to be a substantial federal question. And in
11 Sosna, aside from an individualized residency -- I believe
12 which Justice Rehnquist suggested -- that whether she could
13 prove individualized residency or not was irrelevant because
14 Iowa required that she reside there for a full year. So
15 that the flat statement is simply wrong.

16 Now, we're dealing with, you know, a federal
17 constitution. You're talking about citizenship rights which
18 should be expounded to the limit, to the extent they are
19 necessary to hold this country together, to protect
20 fundamental rights, to protect the kind of national interest
21 that you talk about on a federal level.

22 This program doesn't have anything to do with
23 national interest. It has no impact on the right to travel
24 whatsoever, theoretical or real. You are protecting no
25 insular minority within this state such as newcomers to the

1 state or a racial classification or such. This is a program
2 that the majority has adopted for themselves, not against a
3 minority, not against the poor or anyone else, but -- I'm
4 sorry.

5 QUESTION: Have we ever had a state statute that
6 wasn't adopted by the majority?

7 MR. GROSS: You have had state statutes which are
8 adopted --

9 QUESTION: That weren't adopted by the majority of
10 the voters. Why do you keep emphasizing that?

11 MR. GROSS: Because in this case the class is the
12 majority. I know of many unconstitutional state statutes
13 which have been adopted by the majority against a minority
14 class. In this case you're talking about a state statute
15 adopted by the majority to make them the class, to separate
16 them into the class. And all the distinctions I know this
17 Court has made have been aimed at protecting minority
18 classifications against infringement by a majority.

19 QUESTION: Do you think the equal protection
20 clause is limited to majority and minority?

21 MR. GROSS: Majority and minority? No. But I
22 think the tests which are imposed --

23 QUESTION: Did you read Maricopa County?

24 MR. GROSS: Yes. I think the tests which are
25 imposed by the equal protection clause, Justice Marshall,

1 differ, dependent upon the types of classifications which
2 are being imposed. If you're dealing with a racial
3 classification, or newcomers to a state, or recent migrants,
4 the test is far different. That's all I'm suggesting, not
5 that it doesn't apply.

6 QUESTION: Well, race wasn't in Maricopa, was it?

7 MR. GROSS: I'm sorry.

8 QUESTION: Was race involved in Maricopa?

9 MR. GROSS: No. Newcomers. New residents.

10 QUESTION: Race was not involved.

11 MR. GROSS: No. It was newcomers, which were
12 classified. --

13 QUESTION: Well, doesn't this involve newcomers?

14 MR. GROSS: What?

15 QUESTION: Doesn't this statute involve --

16 MR. GROSS: Not as a classification.

17 QUESTION: -- Recent newcomers.

18 MR. GROSS: No. Not as a classification.

19 QUESTION: It doesn't.

20 MR. GROSS: This is about --

21 QUESTION: Well, why do you draw the line between
22 those who came ahead of time?

23 MR. GROSS: Because people were born there, and it
24 applies to them as well.

25 QUESTION: So?

1 MR. GROSS: Well, certainly then, I mean you'd
2 have --

3 QUESTION: Aren't people born newcomers?

4 MR. GROSS: Yes. They're not recent migrants,
5 unless you stretch the term a bit, I think.

6 QUESTION: I'm just worried about the language,
7 that's all.

8 MR. GROSS: I understand.

9 Thank you very much.

10 CHIEF JUSTICE BURGER: Do you have anything
11 further, Mr. Sandberg?

12 MR. SANDBERG: Unless there are questions I would
13 waive the remainder of my time.

14 QUESTION: How many lawyers are there in
15 Anchorage? I'm just curious.

16 MR. SANDBERG: I think at last count there are
17 somewhere around 750.

18 QUESTION: And what's the population?

19 MR. SANDBERG: Several hundred thousand of the
20 state -- I mean of the city. The state is about 400,000.

21 QUESTION: Thank you.

22 CHIEF JUSTICE BURGER: Thank you, gentlemen.

23 The case is submitted.

24 (Whereupon, at 10:54 a.m., the case in the
25 above-entitled matter was submitted.)

CERTIFICATION

Alderson Reporting Company, Inc. hereby certifies that the attached pages represent an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of the United States in the matter of:

RONALD M. ZOBEL AND PATRICIA L. ZOBEL vs. THOMAS WILLIAMS,
COMMISSIONER OF REVENUE, AND ALASKA

and that these pages constitute the original transcript of the proceedings for the records of the Court.

BY Sharon Connelly

RECEIVED
SUPREME COURT, U.S.
MARSHAL'S OFFICE

1981 OCT 13 PM 4 37