

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

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- continuity of control over long periods of time
- certitude of enforcement and penalty
- integration of the forces of decision-making and control.

All of these factors are critical to successful accomplishment of community management of the problem as they define it. Perhaps the most difficult to accomplish for some communities is the last item -- integration of the forces of decision-making and control.

The relationships among the local option law, the city or traditional council, the village public safety officer (VPSO), the state troopers, and the local or regional judiciary are critical. Adequate enforcement depends upon the mutual support between the council and the VPSO and the mutual support between the VPSO and his/her supervising state trooper. The relationship between the VPSO and the council requires a clear commitment of the council to actively and publicly support the VPSO's mandated responsibility. The relationship between the VPSO and the state troopers requires the troopers to provide extensive and continuous skill training, close supervision and directions, short response times, and direct physical support. The more isolated the VPSO is from council support or from close trooper support, the less likely that the VPSO will be seen as an effective enforcement person. The actual numbers of VPSOs may be less significant than the maintenance of these mutual support systems.

24. There is no evidence to support an argument that the local option law, the VPSO program, or any other single action or program is responsible for the perceived improvements in quality of life for those villages that see improvements. It is more likely that many concurrent actions and events are combining to generate this impression. Other factors include health programs, alcohol prevention and treatment programs, revenue-sharing, growth of local government, slowed outmigration of young people, increased employment, positive changes in demands on and performance of leadership, increased community goal-oriented

activity, religious revival, cultural re-affirmation, and increased health awareness and practices.

25. The presence of law enforcement is absolutely critical to successful implementation of the local option law. Such law enforcement can be in the form of state troopers, city police, constables, VPSOs, council presidents or chiefs, entire councils, community committees, or the community as a whole. Each of these has its own costs and benefits. In general, the more formal the system, the more fear is created of real penalties; on the other hand, the more formal the system, the more likely that it is seen as too distant or too self-constrained (by rules of evidence, by legal charge) to be an effective deterrent. The more local the law enforcement, the more pressure can be brought to bear, by political or illegitimate means, to deter real law enforcement.

26. The effectiveness of the local option law is constrained by normal legal and police procedures, such as establishing probable cause, issuing warrants, gathering and maintaining evidence, and so on. Early in the local option law implementation process, there was a lack of civil rights knowledge and education among local law enforcement personnel as well as among residents. One of the consequences of this lack of knowledge was the development of very effective search methods applied to persons and cargo entering the community. As civil rights education improved, searches became more restricted, less enthusiastic, and less effective, resulting in reduced search effort and increased importation.

27. The stringent requirement for the proper handling of evidence coupled with many residents' reluctance to testify and the violators' knowledge of civil rights often result in an inability to assure conviction and penalty. This is particularly true for those cases which involve chronic violators who have had extensive experience with the courts, who refuse to have their cases heard by

local magistrates, who refuse to plead guilty to the charge, and who demand legal counsel. Thus, those who are most likely to be successfully prosecuted under the law are those who:

- are not chronic or serious violators
- have little prior experience with law enforcement
- freely admit their guilt to the charge
- freely accept the penalty imposed by the magistrate or council.

Since the law is least successful in curbing the behaviors of the most recalcitrant and dangerous offenders (that is, specifically those that the community wished to control through a local option), some residents view the product of this process as neither appropriate and equal justice nor meeting community objectives.

28. Non-local enforcement of laws tends to be negative, but to leave the values and minds of the offenders alone. Local enforcement tends to be positive and supportive, but to demand conformity of thinking and acting.

In conducting strict enforcement and punishment, villages seem less desirous of punishment for its own sake than to alter the boundaries of interpersonal behaviors. Exile is intended as a learning experience (e.g., learning what is in the community mind) and a boundary-setting experience, more than a permanent rejection of the offender. Even the violation of the offender's civil rights is seen as a positive act of caring for and intervention on behalf of the individual.

Communities which exile their members for repeated violations are often determined to awaken these members' awareness of community values and to protect the community and these members during the rehabilitation period. They would not be pleased to see exiled members in jail, with a criminal record, or not eventually returning to contribute to community life. In other words, com-

munity actions are never self-evident in their purposes, even though their methods appear similar to what is familiar and routine elsewhere.

29. Some simple statutes, such as the local option law, are by their nature both rigid and exact. They do not lend themselves to the flexibility of methods and selectivity of enforcement desired by many rural residents. Villages express a desire for the enforcement of local laws to be selective — by person, practice, and season. For example, many villages will identify those persons whose access to and use of alcohol should be absolutely banned; conversely they will identify those persons whose private use is non-problematic. Selectivity may be used to control or punish "outsiders", seasonal visitors (such as miners, fishermen, firefighters, construction workser), and "bad people".

30. A significant problem for village law in transitional communities (that is, communities which no longer exercise traditional authority and which lack sufficient law enforcement and judicial control) is making the violators of laws see the resulting penalties as real and certain. Penalties appear real and certain if 1) law enforcement personnel are readily at hand, 2) judicial functions are readily at hand, and 3) conviction and penalty are not easily avoided. In those situations in which local law enforcement is absent, where communications, transportation, and logistics delay trooper response, where evidence is easily lost or mishandled, where testimony long after the fact is difficult to secure, where witnesses must leave their home communities to testify, where judicial personnel are unfamiliar with village conditions, history, organization, and persons, and where detention or other punishment cannot be assured in the village, penalties for violations are not seen as real. Even in the instances of successful arrest, prosecution, and time served in jail, the home community may not view the outcome as successful, particularly if the community views the time served as either insufficient or excessive (compared to the offense, the

situation of the offender or his family, or the standards of the community) or if the community feels that the return of the offender is threatening.

31. Some communities appear too divided or demoralized, at present, to organize themselves to utilize any of the options provided under state law. Other communities appear to have such strong and intact traditional purposes and forms of social control that they feel they have no need or less need of importing new external powers and control mechanisms. It appears that those communities that desire greater self-determination over aspects of their quality of life and whose traditional systems no longer suffice (for a variety of reasons) to meet these objectives are the most likely to look to the local option law and other tools to achieve their goals. In other words, the communities that are most likely to avail themselves of the local option law are those that are in a transition, returning to a healthier, self-controlling state; these may be communities that have experienced a twenty-year decline in quality of life due to the historical factors which have pervaded these villages. Thus, it is suggested that the local option law does not create healthier communities but that healthier communities or communities that are becoming healthier are the ones most attracted to the local option law as an additional support.

In general, the village attributes which are most likely to be predictive of holding a successful local option law are:

- a secure, activist, and strong village or city council
- a council which is not itself typified by abusive use of alcohol
- consolidation of or unanimity among all village power bases
- a population marked by stability, in terms of racial composition, migration, economy, goals, and problem rates
- a community desire and ability to identify problems, set goals, establish priorities, establish solutions, and take action as a

community.

- other difficult goal-directed actions taken by the community which indicate that the community can exercise self-control.

32. Establishing village law through the electoral process may have a number of unanticipated consequences:

- it may make law-making and enforcement easier by reducing individuation of council members and the VPSO
- it may shift the burden of control from individuals and groups to the entire voting population
- it may be more effective than a liquor license protest because it involves more people more anonymously
- it may be another means to re-affirm already existing village standards and rules
- it may help the electorate override the weakness or opposition of the council.

On the other hand, the electoral process may be used to challenge the very roots and legitimacy of village power structures; depending on one's objectives, this may be a very good or very bad outcome. Once the roots and legitimacy have been successfully displaced, the core direction and wisdom of the village may also be lost.

33. One measure of the success of local rules on alcohol importation or use/possession is a total absence of alcohol and its use in the community. Few, if any, communities have achieved this level of success; no community touched by this study reported such success. All communities reported that drinking was still going on, which disturbs some residents more than others, depending on their level and type of concern; however, since the majority of community men-

bers either hoped or thought that, following rule-making, there would be no drinking at all, there is often considerable disappointment at the failures -- lack of successful voluntary adherence to local rule, lack of successful enforcement tools and methods, and continuing drinking (at some level) in the community. On the other hand, since much of the community concern is with alcohol-related public behaviors and violence rather than with private drinking, communities see their law as "sort of working"; they "sort of overlook" the remaining drinking as long as behaviors do not overstep other residents' standards, rights, or safety. This creates a new synthesis, wherein law is not stringently enforced and behaviors are kept within tolerable bounds.

The combination of the local option law and the efforts of the VPSO is likely to result in earlier identification of and intervention in the development of serious problems, thus altering the number, severity, and types of agency-reported problems. It is likely that rates of less severe problems will rise, initially and dramatically, that rates of more severe problems will decline somewhat and not rise to earlier levels, and that the types of reported problems will change; for example, it is likely that alcohol importation offenses will increase, that alcohol-related deaths and other alcohol-related violence will decline, and that other substance offenses will increase as alcohol availability declines.

34. According to industry respondents and Bush retailers, while some concern existed that villages voting "dry" would reduce the business potential of hub alcohol retailers, the loss of direct access to these villages does not appear to have significantly damaged existing sales. If no significant change has occurred, this may be attributed to:

- major failures in enforcement
- major exportation of behaviors to hubs
- lack of significant volumes having appeared previously in villages (that is, villages having populations that are

too small to show up in the statistics; a large party in a village may not appear as even a blip in the hub's statistics)

- changes in substances used; that is, substituting distilled spirits for beer, or marijuana for alcohol
- changes within only certain populations, resulting in only a small or immeasurable change in per capita consumption rates across aggregated populations and/or communities
- increased unreported bootlegging or other forms of unreported distribution
- alteration of retail merchandising and products to appeal to new, different, and growing demands within the hubs themselves (e.g., selling wines to hub residents rather than spirits to village residents).

35. The immediate objective of villages was to reduce the incidence of alcohol-related problem behavior, including violence, public drunkenness, and public drinking. Since the local option law elections, many communities have perceived a steep decline in visible drunken behavior. Whether or not this perception is correct (and it is likely to be correct), whether or not there is less actual drunkenness or drinking as distinct from visible or public drunkenness or drinking, are probably not relevant distinctions in the communities' assessment of the quality of their daily lives. Even though the volumes consumed and the number of intoxicated persons may remain the same, villages will feel positive about their actions and the effectiveness of the law based on a perceived decline in problems. They will "feel" more "dry", even though they may not be significantly more "dry".

If the overall rates and volume of consumption have not declined since the local option law, what then accounts for the declines in alcohol-related problems and visible behaviors? It is suggested that these changes are due to altered patterns of use by the using population, including:

- increased privatization of use and behaviors
- altered and intermittent patterns of distribution and consumption
- substitution of other substances (e.g., drugs, homebrew)
- externalization of the behaviors and problems to hubs.

There is a growing, although as yet unmeasured sense, that as certain villages reduce their alcohol problem under the local option law, a portion of this reduction is actually exported to those communities which are regional hubs and/or which do not prohibit alcohol importation or sale. This will increase, to an unknown degree, the problem rate and resulting fiscal costs occurring in these hubs, particularly through their law enforcement, judicial, corrections, health care, mental health care, alcohol detoxification, and other systems.

36. What, then, is the benefit of the local option law? Some residents are under the illusion that the law is self-executing, that by passing the law, the reality will automatically change. This illusion is not without some foundation in fact. What appears to happen in some villages is that the community vote on the local option law is an elaborate reaffirmation of existing community rules. The prospect of having troopers enforce the law and having magistrates impose formidable penalties and create criminal records is seen as an immediate deterrent; as an external threat of unknown dimensions, it appears to support and mobilize the internal control mechanisms of the community and thereby produce modified behaviors among residents. The longevity of these positive changes will depend, ultimately, on 1) the reality of the threat, 2) the development of greater internal controls, and 3) significant improvements in quality of life. What is achieved by the local option law may not be control over alcohol but control over community.

II. History of Alcohol Control in Bush Alaska

Alaska's new "local option law" is the most recent in a long line of attempts to control access to and use of alcohol by Alaska Natives. It is also one example of the continuing long-term duality between white and Native systems of law for Bush communities. While the local option law applies equally to all communities within the state, it is clear that the intention and effect of the law were to provide Bush communities, particularly villages outside of borough jurisdiction, with new powers to control the availability of alcohol. Larger communities with municipal governments already had an array of tools to control both the availability of alcohol and the behaviors associated with it; for a variety of cultural and economic reasons, it has been Native villages only which have taken advantage of the local option law. Regardless of how the law was designed, in effect, it is a law addressed directly to village concerns.

The concept of prohibition for Alaska Natives does not appear as a novel instrument for protecting villagers from alcohol because villages had lived under such a ban from the purchase of Alaska by the United States until 1953. From this earlier period until the early 1960's, alcohol availability and use in most villages did not change radically, due to the lack of heavy market demand, money, transportation systems, organized legal distribution systems, and the presence of strict internal village norms and controls. Many older Alaska Natives clearly recall the image of the costs and benefits of legal prohibition and the consequences of its loss in terms of loss of control over legal and illegal alcohol retailing. To the degree that village social control mechanisms have failed to effectively manage alcohol since its acquisition was legalized, much of this "failure" may be attributed to having had, for so many years, an external locus of control over alcohol, the legal powers residing with territorial officers, and access to alcohol far more intermittent than it is today.

The concept of control is common in the history of many countries. "At the

time when the systems of control were first established, regulating the sale of alcohol was often seen as the most efficient way of reducing alcohol-related problems, and generally it was the retail section of the alcohol market that was subjected to the most elaborate controls by the state." (4, p. 78)

Legal controls alone are unlikely to reduce alcohol-related problems. Conn (2, p. 1) notes that "dependence on law only as a mechanism to change drinking problems can, in fact, exacerbate drinking problems and create among the impacted group problems with alcohol which may not otherwise have existed."

Conn's excellent paper documents the history of alcohol use and controls since white men first came to Alaska. It is briefly excerpted here so that the reader may better understand the origins of the local option law. The earliest commercial enterprises from Russia and America used alcohol as a trading commodity with Alaska Native people. The purchase of Alaska by the United States resulted in the introduction of controls on alcohol trade, importation, and possession by Natives, because the Territory of Alaska was treated as an Indian reservation. Thus, early in the history of contact was introduced both alcohol and methods for its control; both were also derived from sources external to the Territory.

The Treaty of Cession, the Organic Acts, and the Territorial government drew distinctions between "civilized and uncivilized" Natives. Civilized Natives were those "who had taken up residence separate from any tribe of Indians and who had adopted the habits of civilized life." Civilized Natives could become citizens and attend schools with the whites. However, this distinction between "civilized and uncivilized" did not extend to the ability to purchase or consume alcohol. Neither class of Native was perceived as having the ability to control its behaviors after consuming alcohol. The assumption of Native inability to exercise self-control over the use of alcohol originated with contact. Teachers

and missionaries saw suppression of drinking as "the prerequisite for civilizing the Natives;" they actively advocated law enforcement efforts "to protect Natives from whites and to protect them from themselves."

Thus, the use of external forms of power to control Native access to alcohol also originated very early. The majority of the alcohol control legislation since that time has originated externally to local communities and has had Natives as its specified or unspecified target. Results of this legislation have been to make alcohol a scarce and valuable commodity and to make its acquisition and possession so difficult that Natives consumed it totally and rapidly. Its scarcity and value resulted in large-scale bootlegging and the introduction of domestic production ("hootch", homebrew).

The First Organic Act of 1884 specifically legislated the prohibition on importation, manufacture, and sale of liquor in Alaska. However, in general, whites would neither prosecute nor convict other whites for violations of this prohibition. The Alaska Commercial Company continued to trade liquor for furs and successfully undermined enforcement efforts by withholding supplies from enforcement personnel. Revenue cutters and Territorial Indian Police were utilized to enforce prohibition, but with minimal effect. Thus, before the turn of the century, non-local controls, widespread organized violation, race-selective enforcement, and local Native enforcement personnel were all present as, to some extent, they remain today.

In the late 1880's, prohibition for whites was replaced by high license fees which, in turn, were to pay for public services. Purchase by or sale to Natives, intoxicated persons, or habitual drunkards continued to be prohibited by law. Prosecution of violations of sale restrictions was not vigorous, although public drunkenness and other drunken behaviors often resulted in jail sentences. Thus, by the turn of the century, community dependence on alcohol-generated revenues to underwrite civic government and an enforcement focus on

alcohol-related behaviors rather than sale or possession became common.

In 1915, Alaska voted the entire Territory "dry", with the primary purpose of solving the problem of Alaska Natives; Conn adduces this purpose from the records of prosecutions based on and subsequent to this "dry" law. (The Territorial legislature made the giving or selling of alcohol to Natives a misdemeanor with a minimum fine of \$120 and a maximum of \$500 or imprisonment of between 60 and 250 days; both parties to the violation were subject to the same penalty.) This law constituted a previous instance of passing a statewide law whose purpose was constraint of Native alcohol consumption. While Alaska's prohibition ended with the repeal of the 18th amendment in 1933, the Territorial prohibition dealing with Natives was not repealed until 1953.

The failure to achieve "dryness" was attributed to Alaska's vast distances, few prohibition officers, and the rise of home distilleries. During this period, "the single form of ongoing contact which the rural Native person experienced with territorial government was the liquor suppression officer." (2) This enforcement effort, however, was quite intermittent and basically ineffectual except in the learning of covert behaviors, a reinforcement of rapid consumption practices, and a learning of the limitations of reliance on external control mechanisms and agents. Of greater importance, however, was the continuing contact with whites, from whom Natives learned aspects of white drinking comportment and the use of alcohol as a commodity in commercial exchange.

It is important to note that, in a relatively short space of time, entire legal systems and enforcement systems dealing with alcohol use by Natives in Alaska had been erected by, implemented by, and dismantled by powers external to Native regions and communities. Thus, within eighty years, Alaska Natives were introduced to alcohol as a valuable commodity, then were totally prohibited from its possession or use by law, then reintroduced to its legal acquisition by law

once again. To the degree that external law, such as prohibition, coincided with village purposes, the loss of such law and its agents could not but have disrupted local controls. It is also likely that, as a learning experience, the "medium" became the "message;" that is, communities wishing to institute controls were more likely to turn to external law and its agents than to internal sources of control.

Conn (7, p. 67) points out that "Western law and its agents were prepared to intercede and jail drinkers...[because] this was, after all, the developed role of the town police, liquor suppression officers, territorial police, and state troopers after them. They were, after all, non-Eskimos, powerful, and free of constraints placed upon councilmen who lived and worked with the persons they confronted, their families and their friends." As the laws which guided control agents then became attenuated over time, a serious vacuum in community controls was created. With the transition of Territorial to State law at Alaska Statehood in 1959, a further erosion in law and law enforcement occurred, as race distinctions were eliminated and a single statewide court system was erected.

"In earlier days, village councils, supported by teachers and missionaries, by territorial law where operative, and, indirectly by limited opportunities to purchase liquor for transport to the village, could focus on possession of liquor within the village, not on liquor-related conduct. By the mid-1960's, however, liquor traffic became a fixture of regional traffic. State law was not consistent in its support of liquor bans in the villages. It had legalized private use and possession of liquor." (7, p. 67-68)

In addition,

"Though state law had removed direct responsibility over village crime from the villages, the state legal apparatus was not prepared to prevent crime in the villages or to deal with minor offenses, this in an epoch when councilmen perceived that village liquor control and action against minor offenses was the key to prevention of serious crime in the village." (7, p. 10)

"To the further surprise of some councils who had emulated territorial commissioners and levied fines, state

police officials now informed them that this authority, along with the authority to prohibit manufacture of home brew, did not enjoy overt support of state legal officials.

The council's fining authority had given them symbolic identity with other mechanisms of white law such as the Bethel commissioner. Now it appeared that this method of identifying village legal power with state legal power would not be supported by state legal authorities.

It appeared then that the only basis of authority to be found for this form of alcohol control would be through uniform action among the Eskimo villages and not from state law." (7, p. 13)

If it had been the case that villages never had internal authority over their members, with external authority over alcohol first introduced and later removed, it would be reasonable to suggest a re-introduction of external power. However, in fact and law, incorporated and unincorporated villages did and may still have authority over the actions of their members. Conn (2) points out that the Indian Reorganization Act provided a structure of "tribal government" for Alaska Native villages, the powers of which include "legitimization of the fining and jailing authority of village councils." The statewide court system was to have replaced these village powers. Villages which incorporated as municipal governments had ordinance-making and enforcement powers. However, even unincorporated village councils continued to act as legislative and judicial authorities long after the legal basis and need to do so was to have been removed, because the centralized court system was effectively absent from the village.

If power is known primarily through its exercise, then villages retained power via extralegal, unsanctioned elections and ordinances as well as local enforcement and adjudication; that is, the consequences of the exercise of power were real, even if the authority of the village was only apparent or achieved through consent of the governed. "What is relevant is that villages continued to perceive themselves as dry and to enforce ordinances against possession or

use of alcoholic beverages with the implicit or explicit blessing of... officials." (2, p. 42) This suggests some implied consent to or support of village extralegal methods by external authorities to accomplish ends desired by both the village and external authorities, as long as these methods become neither public nor challenged; this is an understandable position, given shared concern over alcohol as a public health and safety problem, an awareness of the paucity of external controls, and a disinclination to formally empower or acknowledge the authority of the unincorporated village.

Conn (2, p. 50) points out that fluctuating laws and successful legal challenge of community authority are damaging to both community morale and local self-control. "The alcohol control law in rural Alaska taught Natives to lose faith in their own power as individuals or as groups to control and shape their own destiny." "The particular harmful effect of the introduction of liquor and occasional white legal presence preventing its use was that intoxication and white law wiped out opportunities for Native law to develop means to contain drinking behavior." (2, p. 49)

The sum of this history is a set of fluctuations and paradoxes in thinking and action:

- alcohol is introduced from outside as a commodity, but alcohol control is introduced from outside for the good of Natives
- Natives are taught to manufacture and use alcohol and thought to be unable to control their own use of alcohol
- external alcohol controls are considered essential but repealed in a short span of time
- village powers are provided in, then severely limited by Western law, while villages are told to rely on their own internal powers
- Western law severely limits village powers, but retains the broad municipal powers of large and/or white communities that express less concern about individual access to alcohol and which have greater police powers.

It is against this paradoxical historical backdrop that the new local option law should be measured, to determine whether it is an internal or external power and

whether it is more likely than its predecessors to meet either state or village objectives.

A. History of the Local Option Law in Alaska

The international history of local controls is instructive.

Local option, in one form or another, has traditionally been an important way of allowing dry communities to stay dry in a generally drinking society...Compared to the early 20th century, the control authority of local communities has generally decreased. This reflects, in part, the loss of power by temperance groups, who traditionally advocated local controls as a means to curtail the alcohol market. Centralized authority also reflects the tendency of the alcohol markets to expand beyond the local level. Policies concerning alcohol may have significant repercussions on other economic concerns of the state that could not be managed if local communities were permitted to make independent decisions. (4, p. 71)

As the public emphasis regarding the nature of the social alcohol problem as a whole came to be laid more on treatment in the study period, the traditional control methods of limiting the availability of alcohol beverages came to be seen as an archaic patchwork of laws and as irrelevant to contemporary life. (4, p. 85)

Within this century, in the United States as elsewhere, there has been an increasing liberalization of attitudes toward drinking.

"The intellectual support for liberalization measures came from sociological research on alcohol with the emergence of the "integrationist" or "socio-cultural" approach to the prevention of alcohol-related problems in the 1960s. This approach held that many problems were a product of the lack of an integrated and internalized system of norms concerning drinking activities. This could be resolved, it was argued, by the early introduction and inculcation of responsible drinking habits and through the removal of certain legal constraints and regulations. Thus, the liberalization of control was encouraged as being consistent with a healthy drinking culture." (4, p. 85)

A similar tendency toward simpler and less discriminatory rules can be observed in the disappearance of restrictions on selling alcohol to members of ethnic or other minorities. Native Americans now have legal access to alcoholic beverages, denied to them for almost a century." (4, p. 83)

Conn (7, p. 14) reports that, in 1962:

Councils discovered that general prohibitions of liquor backed by village consensus and historically by teacher-

missionaries and territorial officials would not receive the backing of state law. Instead, state law made them vulnerable to lawsuits if they enforced bans against manufacture of home brew or introduction of liquor into their villages.

The promised support of state law in the realm of alcohol control focused exclusively upon problems which had already begun and not on the presence of liquor as a source of trouble. From the village perspective, liquor's presence and liquor's availability were the logical points of attack by councils and state law. But, as in 1962, state legal officials offered no support to villages who wished to remain dry by curbing introduction of liquor into their communities. Support for such a position at the state level did not occur for another 15 years. (7, p. 19)

It became the liberal policy of the State that alcoholics and intoxicated persons should 1) not be criminally prosecuted for their consumption of alcoholic beverages, 2) that they should be afforded a continuum of treatment so they may lead normal lives as productive members of society, and 3) that public drunkenness did not constitute criminal behavior.

Alcohol control measures continually vacillate between substance or individual consumer control. This is an international, historic phenomena (4) which Alaska is continuing to mirror.

"In a situation of increased acceptance of drinking in everyday life, policies may tend even more toward individual control of deviant drinkers. In an era of contracting public welfare resources, this tendency may be expressed more in punitive than in treatment-oriented measures. The singling out of individuals for special handling, whether in the form of treatment or punishment, often carries with it adverse side effects, for example their permanent identification as deviants. In our view, preventive alcohol policies should, therefore, be given a high priority as an alternative to the morally inspired control of problem drinkers." (4, p. 11)

As control of the substance fails, control of the individual becomes the focus. Suggestions are made to develop individual liquor purchase licenses for those of age; movements are made to raise the drinking age; drunken driving laws are toughened; criminal penalties are sought for drunk in public; and involuntary commitment procedures are relaxed. Alaska has been entering the individual consumer control phase of this cycle over the past several years. The local

option law, although its focus is the control of the distribution of alcohol, is utilized and perceived as a means of controlling individual behavior.

There have been local option laws in the United States since 1806. Alaska communities have had some local option powers since 1962; however, these powers were restricted to communities incorporated under state law. Since Native villages had operated almost exclusively under federal law until Alaska Statehood, few were incorporated by the early 1960's. The new local option law extended alcohol-control powers in both incorporated and unincorporated communities and backed these village powers with the authority of state law and law enforcement.

Many Alaska villages had expended great energy during Territorial times to acquire greater control over the presence, use, and misuse of alcohol. In this attempt, they received strong moral and legal support from federal officials, but in sufficient fiscal and law enforcement support. With Statehood, there was a decline in all these supports because state law was far more liberal about individual access to alcohol and concentrated far more on the drinker's criminal behaviors than on community well-being. This created new crises for Alaska villages, as documented by Conn's study (7) of Yukon-Kuskokwim regional meetings on this topic in 1962, meetings attended by villages, towns, and state officials.

During this same historical period, shifts were occurring in the perceptions of the alcohol problem. Treatment agencies were emphasizing the individual disease model of alcoholism, which tended to reduce the focus on the community within which the individual was embedded. The communities, on the other hand, continued to suffer unacceptably high rates of public safety problems, including homicides, suicides, assaults, and accidents, to say nothing of the fear and distress accompanying these social indicators. The communities continued to

perceive the problem as a social control issue and requested more legal and police authority to control the problem at its source (e.g., alcohol retailers), at its distribution (e.g., cargo carriers), and at its final point (e.g., possession and use by village residents).

Village, sub-regional, and regional meetings continued through the mid-1960's, with little significant improvement in controls. In 1967-1968, the Federal Office of Economic Opportunity (OEO) Special Projects Desk began to provide grants to Community Action Programs (CAP) to highlight the persistence of alcohol problems. In 1971, OEO provided the Rural Alaska Community Action Program (RurALCAP) with \$100,000 to provide training to alcohol counselors in regional centers. In 1972, OEO was broken up and its Alcohol Desk was fragmented, with some parts transferred to the Indian Desk of the National Institute of Alcoholism and Alcohol Abuse (NIAAA) and grants to the National Indian Commissions on alcoholism and drug abuse.

In 1973, Alaska Senator Ted Stevens succeeded in obtaining additional funds for alcohol prevention among Alaska Natives. The RurALCAP alcohol program became part of the Alaska Native Council on Alcoholism and Drug Abuse (ANCADA); ANCADA became qualified to receive NIAAA grants for prevention. Meanwhile, RurALCAP continued with its alcohol counselor program and elicited community concerns through its annual Citizens Participation Conferences (CPC). In 1975, the CPC examined its old resolutions and addressed its concerns to the RurALCAP Board, particularly for additional funding for counselors and the training of indigenous persons for these tasks. ANCADA lobbied heavily for the dedication of alcohol excise taxes to support alcohol prevention and treatment programs.

From 1975 to 1977, the Governor and the Legislature received many alcohol-related complaints from the Bush and demands for solutions. The Administration examined a series of statewide proposed solutions and prepared a draft set of comprehensive legislative actions for consideration by the Legislature. It was

not Bush concerns alone that resulted in this package but a coalition of interests, including administrators who were seeking a new revenue base to offset the severe social costs posed by alcohol; this interest coincided with another administration hope -- that increasing the cost of alcohol would reduce its consumption and, by extension, the related social costs.

Thus, the local option law was only one of many proposals, including marked increases in alcohol excise taxes, limiting the number of new alcohol retail licenses, banning the advertising and filling of mail orders for alcohol, revenue-sharing to villages to design, fund, and staff their own alcohol prevention and treatment services, and so on. RurALCAP and ANCADA participated in the discussion of these initiatives with administrative agencies, particularly the State Office of Alcoholism and Drug Abuse (SOADA) and the Attorney General.

The draft legislation was presented to the Legislature in 1977; the Senate formed a Special Select Committee on Alcohol to deal with the entire legislative package. Members of the Committee travelled to many communities across the state, moving far too rapidly in the view of villagers, holding public hearings on the draft legislation. Some villagers appeared infuriated at what they perceived as a pro forma exercise by the Committee and wrote letters to the Tundra Times, the statewide Native newspaper, suggesting that, if the Committee were not serious, then it should not come to the villages.

The chairman of the Committee, noting these concerns, sent an outline to communities, asking them to write for the Committee their own model legislation. The response to this approach fell into two categories: 1) local control and enforcement of availability of alcohol and 2) revenue-sharing to support village-based prevention and treatment programs. There was strong support for increasing the excise tax on alcohol and disbursing this money to local governments for programs; it was also seen as a means to replace local governments'

direct dependence on local alcohol taxes. Several proposals suggested that the State reimburse any local government that opted to go "dry" for its lost alcohol tax revenues. The survey increased the impetus for enactment of the local option law, although there did not appear to be a direct correlation between the array of laws, powers, and actions that were requested and the four options that were finally provided.

The comprehensive alcohol package had many "parents", including RurALCAP, SOADA, the Governor, CPC, Alaska Federation of Natives (AFN), Alaska Legal Services Corporation (ALSC), Association of Village Council Presidents (AVCP), a major statewide conference on Bush justice, large numbers of representations from villages, an Administration interdepartmental coordinating committee, a widely-distributed analysis of the legal architecture and enforcement disjunctures dealing with alcohol, and the interest and support of a few key prominent legislators. The most prominent opposition to the package was the alcohol retail industry which was far more concerned about (and successful in defeating) increases in the excise tax on alcohol than it was about the local option portions. Industry lobbyists suggest that they left the local option portions alone in order to achieve more support from Bush legislators on the excise tax issue. They also suggest that the local option law would not hurt the industry's "bottom-line" income statewide, but would shift the site of consumption from the villages to the hubs, with a consequent shift in problems.

Only two noteworthy challenges occurred in the passage of the law, both of which failed. The first was a suggested, but failed amendment to compensate those retailers who lost their license due to a local vote against "sale". The second was a substitute vetoed bill which would have allowed for the banning of possession of alcohol, a right which is protected by the Constitution (although subject to debate) and which would therefore negate the legislation.

The Committee issued its report, the findings of which seemed to require

some legislative action. During 1979-80, little progress seemed to be made due to the intractable issue of the excise tax which divided the Administration from the Legislature. The CPC raised the issue again and individual legislators continued their efforts at passage. The villages continued to press for various forms of prohibition, reduced access to alcohol, and reduced quantities of alcohol. They argued that counselors, taxes, police, and prevention programs were insufficient solutions without these legal controls. They expressed strong support for tough laws on the possession of both alcohol and marijuana and were frustrated by the continuing lack of these tools. Lobbying by the legislation's "parents" intensified and the package was redrafted several times.

The legislature defeated the excise tax and air freight portions of the bill and then dealt with the local option portion. The present bill was passed in 1981, over the moderate objection of the alcohol industry which saw it as another attempt to institute prohibition in Alaska.

As is often the case, the enactment of a single statute involves and, at times, contradicts portions of other statutes, thus requiring additional legislative action. As the new statute is implemented, these complications surface, requiring time-consuming modifications. From the point of view at the local level, the "evolutionary" process of refining and implementing appears as a changing of the rules of the game, resulting in both confusion and frustration.

Upon hearing of the passage of the local option law and without noting its restrictions and requirements, some villages immediately held elections and adopted restrictions on the sale and importation of alcohol. However, the law required that the State Lieutenant Governor's Office supervise the elections. This requires a community to circulate a petition for a local option law and have the petition certified by the city clerk and council prior to the conduct

of an election. Another statute also required that municipalities holding special elections also have an ordinance authorizing special elections. Communities which had held elections discovered that they would have to redo the process after additional implementing legislation was passed to authorize elections in communities which had "codified" their ordinances.

The Attorney General's office found these early elections to be invalid. This would have caused only a minor disruption had the villages been able to continue to enact their own emergency ordinances during the interim period of implementing legislation. However, the Attorney General also presented an opinion that the new local option law pre-empted the passage of emergency ordinances accomplishing local option objectives.

During the year between the enactment of the local option law and the implementing legislation, villages were left without any power to deal with their alcohol problems as they had in the past. One village, for example, wanted to pass an emergency ordinance prior to Spring "break-up", because it loses residents through the ice when alertness is impaired by alcohol. That Spring, five or six residents were reported to have died on the river due to alcohol-related accidents.

A dozen or more villages ignored the Attorney General's opinion and passed local emergency ordinances anyway, some because they required this control as an interim measure to a local option law election and others because that was the flexible legal instrument they had used on a seasonal basis to reduce their problems. Other communities, which had successfully accomplished the petition process, had their elections put on hold until the implementing legislation was enacted, thus placing themselves at risk to exceeding the 90-day valid life of a petition.

Following implementing legislation, a community could hold a valid election as long as it adhered to all the proper procedures of both the petition and

election process. Having accomplished this, there was a possibility in 1982 that all of the elections already held would be found invalid because new provisions in the law were not sanctioned by the Federal Voting Rights Act of 1965. This Act required submission by affected areas of all changes in election procedures, whether they diminish or expand voting rights, to the Department of Justice. Either the Attorney General's Office or the municipalities themselves were required to comply with these submission requirements.

An opinion was solicited by Alaska Legal Services Corporation of the Justice Department about the application of the Voting Rights Act to the local option law. The Justice Department determined that Alaska could request an exception for these elections as a "recurrent practice." ALSC prepared a submission of the exception which was modified slightly by the State Attorney General and forwarded to the Justice Department. ALSC language is instructive on the issue:

"The fact that the alcohol local option election process helps rural Alaskans to become 'vested' in the system, to comprehend democracy in action, to learn election procedures, to begin to comprehend a few of the intricacies of law enforcement and, most importantly, to feel some measure of control over their own lives within 'the system.' To have the state Title 04 alcohol local option law invalidated at this stage would likely serve to debilitate and alienate a wavering faith that white man's law can work for them." (5)

The exception was approved by the Justice Department in June 1982 and the village elections already held were approved retroactively. Concurrently, the Governor signed a bill exempting the use of "sacramental wine" from the local option restrictions on sale and importation of alcohol.

B. Power, Limitations, and Uncertainties of the Local Option Law

1. Powers

The local option law allows incorporated communities and "established villages" to vote on four different options on the availability of alcohol within their immediate environment. (The only communities which may not hold

local option law elections are those unincorporated communities which are within the boundaries and jurisdiction of borough or municipal governments.)

In fact, there are more than four choices, because villages are not required to hold a local option law election to retain the status quo; in addition, if they reject any or all options, it is unlikely that the status quo will have to change.

When a community holds a local option law election, it is not a popularity contest among the options with the majority winning. Each option requires a separate petition process and election and only that option which is supported by a petition appears on the ballot. As often as a petition is successfully circulated and certified, an election will be held; thus, no community decision is more permanent than the community desire to support that decision.

The local option law provides options with different degrees of flexibility. Option One authorizes the establishment of a selected license to retail alcohol from among the 17 types of licenses available. For a community without a current liquor license, Option One would constitute an expansion of sale. Adopting Option One does not reduce the ability of the community to control the conditions of operations through ordinances and through Alcohol Beverage Control investigation nor does it reduce the ability of residents to protest license issuance.

Option Two provides for a community-owned and operated alcohol retail license, whether a bar, a package store, or both. Option Two is restricted to communities with an incorporated structure which takes responsibility for the operation of the license. The license cannot be issued to or operated by a private concessionaire. Option Two would constitute an expansion of sale in a community without a licensed retailer, generates revenues to the city government, and places conditions of sale under the authority of the city council and ABC.

In a community with an existing alcohol retail license, this would entail closure of that private license within 90 days of the election; therefore, there would be a shift from private conditions of sale to public conditions of sale.

Option Three forbids the sale of alcohol within the community. In effect, this option would close any public or private retailing of alcohol that currently exists, while still allowing the individual to import, produce, possess, or consume alcohol. Option Three neither expands nor diminishes existing statutes against bootlegging, that is, selling alcohol without a license. Option Three is more popular than Options One and Two which provide for an expansion of use. Option Three, while not prohibiting the importation, manufacture, possession, or use of alcohol, expresses disapprobation of ready and unlimited access to alcohol within the community confines. Option Three actually extends community authority over retail sales; under previous conditions, a community could protest the issuance of a license by and to the ABC, which retained final authority. Under Option Three, final authority resides with the electorate.

Option Four, by far the most restrictive and popular of the options, forbids both the sale and importation of alcohol. It is not total prohibition, because it does not diminish the individual's opportunity to make or consume alcohol; possession, up to certain limits, does not constitute prima facie evidence of violation of the prohibition of sale or importation.

These options all derive their considerable authority from the power of the state, which exercises control over alcoholic beverages under the 21st Amendment. Court decisions have interpreted this power to include the right to control alcohol traffic (i.e., sale and importation); they have also established that alcohol being sold in one locale and denied in another does not deny equal protection guarantees. It also appears that the right to consume intoxicating liquors for personal use is not one of those fundamental privileges of a citizen

of the United States which no state may abridge.

Abridgement of importation and sale, although not of possession, was justified in arguments for the local option law which suggested that the public health problem posed by alcohol was quite great and that there is a close and substantial relationship between the means (the local option law) and the ends (limiting the magnitude and tragedy of the public health problem). The prohibition of sale and importation becomes more powerful under the local option law than under the ordinance-making power available to villages in that:

- 1) the local option law extends village authority over all residents and visitors, who previously may have denied the authority of the village governing bodies or systems to control sale and importation
- 2) the local option law extends village authority to a five mile boundary around the village
- 3) the local option law requires compliance by external commercial carriers, under severe penalty for violations
- 4) the local option law requires compliance by all statewide and regional distributors
- 5) the local option law requires some state law enforcement and judiciary response to violations.

The penalties of violations of the law are significant:

Sale Without a License

First Offense: Class "A"

Misdemeanor:

10 days to 1 year in jail and/up to a \$5,000.00 fine.

Second Offense: Class "C"

Felony:**

10 days to 5 years in jail and/or up to a \$50,000.00 fine.

* Bootlegging - selling liquor for profit without a license -- is against state law whether or not an alcohol local option election has been held. The same fines and sentences apply.

** Liquor sold to a minor, someone under nineteen (19) years of age, is a Class "C" Felony.

*** If the amount of liquor sold is 12 liters or more hard liquor, 24 liters or more of wine, or 45 liters or more of malt beverages, the prohibited sale is a Class "C" Felony.

Importation in Violation of Options #3 or #4

Less Than: 12 liters of hard liquor (gin, whiskey, rum, etc.)
or 24 liters of wine or 45 liters of beer is a Class
"A" Misdemeanor: up to 1 year in jail and/or up to
a \$5,000.00 fine.

More Than: 12 liters of hard liquor (gin, whiskey, rum, etc.)
or 24 liters of wine or 45 liters of beer is a Class
"C" Felony: up to 5 years in jail and/or up to a
\$50,000.00 fine.

A person can be forced to forfeit (turn over) property to the state if it is used illegally to import alcoholic beverages into an unincorporated community which has voted for the no sale-no importation option. For example, if a person flies his or her plane into a community knowing alcoholic beverages are on the plane, the plane and the liquor can be taken away by the state after proper legal proceedings.

2. Limitations

In practice, the local option law is used by Bush Alaska with Option Four being by far the most popular choice, given village desires to severely limit, if not prohibit, access to alcohol. Were it possible for village law to totally prohibit the manufacture or possession of alcohol and to search and seize persons and premises for evidence, many villages would choose to do so. The fact that the Constitution denies them these powers is inexplicable and frustrating to them, since their motives are to save human lives, entire communities, and entire cultures.

Most of the villages that have considered using the local option law consider the law to be exclusively Option Four and many have translated Option Four to mean "prohibition". They (and many government agency personnel) talk about voting "dry" and having "dry" communities; becoming "dry" would mean an end to homebrew and probably the institution of unconstitutional police powers.

Some villages desired both of these controls and included them in their local ordinances and on local option law petitions forwarded to and rejected by the Office of Elections.

The desire by agencies, particularly law enforcement, for prohibition stems less from moral attitudes about drinking or the psychology of drinkers than improved methods to achieve the objectives of villages. These personnel are supportive of possession or public drunkenness as constituting prima facie evidence of the prohibition on sale and importation. This form of legal logic would greatly facilitate, some believe, the arrest and conviction of violators, particularly those who quickly discover the weak links in the legal chain. On the other hand, other gaps remain, including the open questions of when and how the alcohol was made or obtained, under what conditions it was obtained, and so on. If public drunkenness were to constitute prima facie evidence of violation, would it also constitute sufficient probable cause to warrant search and seizure? Intensifying legal powers to achieve policing objectives may result in a rejection of the original law as too intrusive for residents. Law enforcement personnel and village residents report that they have other, less formal means to combat this gap.

In effect, the law says to villagers that they violate the law by importing alcohol into the community, but that once it is within the community, there is little or nothing the community can do about it. The village is distressed that, once past the form and letter of the law, the violator is rewarded by being allowed to freely consume his illegally-imported alcohol. This frustration is dealt with differently, by both formal and informal, local and non-local authorities, as will be explicated later in this report.

Many village residents view the alcohol problem as a regional problem, soluble only by regional action rather than by individual community action

alone. They support this view by pointing to the relationship between inter-community transportation patterns, hub alcohol retailers, and village drinking. Of course, neither the local option law nor the powers of the Alcohol Beverage Control Board encompass these inter-community ties; for example, without a borough form of government, there appears to be no way for villages surrounding a hub to influence the retailing of alcohol within that hub. The State tends to view communities as individual, unrelated entities, whereas regions often see themselves as one large community with shared problems. Although the regional hubs bear the costs and reap of the benefits of their role in the sale and distribution of goods and services, the remainder of the region reaps few benefits to offset the costs of the regional presence of alcohol.

The local option law appears to fill some, but not all the perceived gaps in the license protest process. Liquor license protests by any person or community appear to be complicated by several factors:

- only residents of the community in which the license is to be sited appear to have any real standing; regional and intercommunity concerns appear to be peripheral
- the protester is seen to be opposed to a particular individual license rather than opposing all retailing for the community good
- the grounds for a successful protest seem to require either 1) considerable evidence of actual or potential violations or danger or 2) formal opposition by the governing council
- testimony to the ABC is understood by some villages to require travel from the village to the city and speaking in public to strangers or for the Board to travel to the village, even though the Board tells the public that phone calls and letters also constitute testimony.

A local option law has important similarities and dissimilarities to license protest:

- the electorate is limited to community residents
- an individual speaks out, not as an individual, but as a member of an electorate
- opponents to alcohol sale or importation are seen as acting on a general principle rather than on a personal level
- opponents are not speaking to strangers but to themselves; they are not asking for, but exercising, controls.

Options Three and Four appear to reduce some of the flexibility in controls that had previously been exercised under a variety of ordinance and rule-making authority. The exercise of these earlier powers included such aspects such as limiting the amount of alcohol a person could import (e.g., bottles rather than cases of alcohol), the type of beverage (i.e., beer as opposed to spirits), the season (such as holidays and festivals), and the person (some persons are known to be less responsible or dangerous than others). On the other hand, the local option law, while considerably less flexible, remains in force (at least nominally, depending on reporting and enforcing effort) until repealed and is backed by state authority.

In order to retain or regain that flexibility, many villages, having adopted an option under the local option law, feel it necessary to pass implementing and supplementary ordinances dealing with public drunkenness, possession, search and seizure, involuntary commitment, jail and financial penalties, and so on. They appear to feel that the local option law is merely a backup to these other forms of local control, as an external threat to be used if local authority is violated; in other instances, these ordinances have been used to modify (e.g., limit, extend, alter the terms of) the option, although they do not have the power to do so. This has required on-site community legal education and technical assistance to counteract invalid, illegal, and extralegal community actions.

Another limitation, which could be altered by legislation, is the inability of unincorporated, "established villages" within borough or municipal boundaries to hold a local option law, creating the anomaly of villages outside of boroughs having more local control over alcohol availability than villages within boroughs. In those instances where village ordinance-making powers have been surrendered to boroughs, borough police are not even obliged to enforce village ordinances aimed at alcohol control.

Other limitations include:

- the inability to regulate the importation of liquor into a federal enclave over which the U.S. exercises exclusive jurisdiction; therefore, passage of Option #4 by a community that is adjacent to a military base, FAA station, etc., cannot keep alcohol from entering the Federally owned land; it can take steps to insure against only the "unlawful diversion" of liquor into the internal commerce of the state
- the inability to control the sale or importation of alcohol in or to lodges and work camps outside of the village boundaries
- the inability to stop the alcohol flow at its source, the urban retailer, who may not or cannot "know" what purchasers "intend" to do with large purchased volumes.

3. Uncertainties

There remain some gray areas in the interpretation of elections and enforcement, beyond the constitutional challenges that have been raised in an initial case against a former state trooper.

One area of concern is, if a community formally rejects, by election, Option Three or Option Four, does that indicate that the community is approving the introduction of retail sales, even if community ordinances prohibit sales or are silent on the issue?

Another uncertainty includes what constitutes proper evidence of a violation. For example, is an empty bottle in a trash can evidence of a violation of a prohibition on importation? Or is that an invasion of the privacy of the resident?

A more significant area of concern involves the transportation and offloading of alcohol in or near villages which have adopted Option Four. Vehicles used to import alcohol into a no sale/no importation community can be

confiscated. Air carriers have identified unique legal problems in response to their concern of possible loss of their aircraft and have developed some unconventional means of protecting themselves.

The major, unanswered, question for air carriers is the off-loading and transporting of alcohol through a no sale/no importation community when the alcohol is destined for a community that can legally import alcohol. The alcohol is not intended for distribution within the option #4 community; but because of the transportation center status of the option #4 community, alcohol intended for legal delivery in an outlying community must pass through a community where it is illegal to import alcohol. Is it a violation of the law? Can the air carrier lose his airplane? Is it a violation if a carrier delivers alcohol just outside the boundary for actual importation by locals? How sacrosanct is the boundary and what is meant by intent?

The Attorney General has not rendered an opinion on this issue to date. The definition of importation and the flow of commerce will be central in resolving this issue. If the intent of the law is interpreted as meaning importation for the purpose of distribution, then offloading and transporting through will be legal. If importation is more narrowly defined, then any and all offloading and transporting would be illegal under Title 04; a constitutional challenge could be made on the grounds that the statute interferes with legitimate commerce.

In the meantime air carriers have refused to transport alcohol under these circumstances, have had employees inspect baggage, and begun querying "bush" passengers as to the content of their luggage. One pilot reportedly asked passengers if they have any breakables in their bags. If the response is "no" then he purposely "slams" the bags into the plane. If the answer is "yes" then he wants to know what it is. The potential for loss of their aircraft has made the air carriers very responsive to enforcement of the local option. What

constitutes reasonable steps an air carrier can, should, or must take is a vague area, lying somewhere between the obligation not to "knowingly transport" and passengers' rights to privacy. When a carrier can search luggage or persons or X-ray luggage for alcohol, rather than weapons, remains unclear.

4. Procedural Obstacles in Conducting a Local Option Law Election

Communities turn to the local option law as a means of introducing external controls where local authority has not been found adequate in achieving control over alcohol. The methods of exercising local authority in the past have included rules adopted by a traditional council and emergency and other ordinances enacted by city councils. In order to legally adopt a local option, however, communities are required by the state to follow a relatively complex set of actions and procedures. These bureaucratic procedures often constitute a more formidable obstacle to community objectives than does the actual implementation of the option. (For precise and well-written manuals to the law, readers should review "State of Alaska Title 4 Local Option Law for Incorporated (and Unincorporated) Communities" prepared by the Alaska Legal Services Corporation Alcohol Project and available through the Alaska Department of Community and Regional Affairs.)

In order to hold a state-sanctioned local option law election, villages and cities must:

- petition the Office of Elections to conduct such an election
- have their existing ordinances "codified" (if a city)
- have an ordinance providing for "special elections" (if a city).

Thus, in order to hold an election, a series of precise pre-conditions must be met, requiring close adherence to procedures and schedules and coordination with the Office of Elections and other state offices. If any of these many preconditions are not met exactly, a community may be compelled to repeat all of the

laborious steps in order to hold an election. Some communities, already fearful of elections, tend to give up when these bureaucratic obstacles are recognized. Other communities have accepted this burden and have had to repeat the process a number of times before successfully conducting an election. Thus, the more sophisticated the city government and/or the more adamant and determined the community, the more likely that an election will actually be held.

The following are the requirements for preparing and submitting a valid petition:

- 1) Only registered voters may sign.
- 2) All signatures must be received within 90 days of the date of the first signature.
- 3) To be valid 35% of the number of registered voters from the last election must sign.
- 4) The petition must be signed in ink, and requires signatures, printed names, printed dates of signature, and printed resident addresses.
- 5) The completed petition must be filed 90 days before the next election.
- 6) Within 10 days after filing with the City Clerk, the City Clerk must certify whether or not it has sufficient and complete signatures.
 - a) If not sufficient, residents have 10 days to get additional signatures.
 - b) Within 10 days of refileing, the City Clerk must recertify. If rejected, it is filed as a public record.
 - c) If certified "insufficient" any signer may file a protest with the mayor within 7 days of certification. The mayor shall present the protest at the next city council meeting and the council shall hear and decide the protest.
 - d) If proponents cannot get enough signatures, they can file another

in six months.

- 7) If certified, the City Clerk presents it to the City Council at its next meeting.
- 8) The City Clerk and City Council must prepare an ordinance to implement the petition and submit it to the voters for election within a reasonable period of time.
- 9) The notice of election must have published the ordinance in full and posted in 3 obvious places.
- 10) The ballot must read:
"shall the sale and importation of alcoholic beverages be prohibited in _____? Yes _____ No _____"

Each of these steps has posed an obstacle for different communities due to 1) the apparent complexity of the task, 2) the manipulation of the technical system by local factions seeking to derail the effort, and 3) problems of timing which are characteristic of highly seasonal economic activities and related migration and a non-bureaucratic people. Examples of these obstacles, as experienced by different communities, include:

- sufficient number of signatures appeared in a timely fashion, but clerk neglected to certify it for 8 months; more signatures were appended to the existing invalid petition; city officials thought the city had a valid petition, held an election; the entire process had to be repeated
- petition lacked dates; rejected
- notice was not posted for sufficient time; rejected
- not posted in three places; rejected
- sufficient signatures but exceeded 90-day limitation; rejected
- wording incorrect "to ask the State of Alaska to hold a special election to vote the village a dry village per section AS04.10.430.";

rejected

- developed petition based on language in newspaper account, not directions of Office of Elections; rejected
- the major supporter of the petition died, no one followed through
- the clerk went to fish camp and failed to certify the petition in time; rejected
- city failed to enact a "special elections" ordinance
- residents signing with a mark instead of signature placed incorrect mark; rejected
- signatory failed to print either 1) name, 2) address, or 3) date; rejected
- council delayed holding election in timely fashion
- village mistook petition for election, thought they had voted "no sale/no importation" by the petition alone.

The election process, itself, is fraught with some of the same difficulties as well as some of the same distortions that occur in elections elsewhere:

- voters uncertain whether voting "no" on the ballot meant voting against alcohol or against the option
- voters were presented with incorrect wording "ban possession and importation"
- voters did not know whether they were prohibiting sacramental wine
- community wanted to place all four options on ballot with highest vote-getter winning
- election had to be repeated when mayor felt voters did not understand the ballot
- new housing project moved registered voters, including some council members outside of city boundaries; had to petition first for annexation, hold a special annexation advisory election, have council consider and approve annexation, then hold local option law petition and election

- IRA supported local option law and circulated valid petition which was then ignored by clerk and council
- contested elections, signatures, registration of voters
- option appearing on regular ballot rather than special election ballot
- voters imported in time to register in order to defeat the initiative.

These complexities have not proved to daunt those communities and groups which were determined to enact a local option; some have had to repeat the entire process three times. It is interesting to note that, should they desire to replace an enacted option, they would first have to successfully petition that option, hold a valid election, defeat the option, circulate a petition for another desired option, hold a valid election, and approve this option. It is not surprising that some villages which have circulated petitions or held unsanctioned elections adopting an option have operated from that time as if they had met all of these legal requirements.

Although the local option law was written to be able to be used by almost all Alaska villages, towns, or boroughs, it was clear from its origins that the principal beneficiaries of the law were to be Alaska Native villages. Over time, it has become even more clear that this opportunity is used by smaller, more remote (in terms of ease of transportation), Native villages and that larger villages, sub-regional and regional transportation centers, and Bush communities with large or predominantly white populations tend to not consider using this law.

These latter communities are different in many ways from their smaller counterparts. They tend:

- to have drinking patterns which routinely incorporate moderate and private drinking in social settings
- to have the use of alcohol as a non-problematic component of leisure

activities

- to have an extensive economic system wholly or partially based on alcohol (e.g., bars, package liquors, restaurants, hotels, city revenues)
- to have intervention (e.g., police, detoxification services, treatment services, and jails) methods for the interception and control of alcohol-related behaviors
- to have broad incorporated city powers, via ordinances, licensing, zoning, taxing, and representations to the Alcohol Beverage Control Board to flexibly control access to alcohol.

It was predictable that some communities and some regions would not be as interested as some others. Large hubs, white towns and villages, road-connected communities, and villages with a longer history of acculturation tended to express less concerted interest in the options made available under the law. Some communities expressed interest until they discovered the lack of variety and flexibility under the law; in some instances, these communities returned to their city powers to control the conditions of alcohol sale.

Two basic types of villages tended to keep the local option law at arms' length. The first type was that which was either deeply divided about the issue of alcohol control or was attached to life without such controls. The second type was that which felt that its traditional controls were sufficiently effective, that the law itself was better for "weaker" villages, and that the law would result in more and undesirable contact with the State.

At this writing, over 70 of the state's 270 villages have held a local option law election, with 55 enacting one of the options. Very few communities have considered Options #1 or #2, to allow local retailing of alcohol.

Village consideration of the local option law is based on many factors, including:

- radio, TV, and newspaper advertisement (e.g., Tundra Times, Tundra Drums)

- actions of neighboring communities
- actions of the ALSC Alcohol Project and regional personnel
- actions of village alcohol councils
- actions of subregional alcohol counselors, mental health workers, RurALCAP, actions of the Native health corporation, and village support teams focused on violence in their community visits
- a rash of recent negative alcohol-related events.

Communities commonly adopt a "wait and see" attitude when new opportunities or systems surface, to see how they work out elsewhere, before they invest in them themselves. News is spread most quickly by word-of-mouth, through inter-village family ties, friendships, and adjacency.

Although there are new Villager-to-Villager programs to share concerns and solutions to problems common to different regions, communities tend to know a great deal more about events and changes in their own regions because of the ease and swiftness of communications.

These communications are likely to account for the geographical spread of local option law elections. Until recently, it appeared that the Yukon-Kuskokwim Delta expressed the greatest initial interest in and attachment to the local option law. This pattern is attributed to the long history of concern about alcohol in the communities attached to Bethel, the active role of the Association of Village Council Presidents in lobbying for new control legislation, and the active efforts and presence of RurALCAP and the Village Alcohol Education Counselors in the region. In addition, remote communities on Nunivak, and Nelson Islands (as well as St. Lawrence Island in Northwest Alaska) had been attempting to acquire greater control and had also lobbied heavily to get new legislation.

Through a variety of communication linkages, the word spread rapidly

throughout the Yukon-Kuskokwim Delta, Northwest Alaska, and the Interior. The ALSC Alcohol Project was very busy responding to the information needs of many villages, some of whom were waiting to act until they had an opportunity to assess what had resulted from elections in neighboring communities. Newspapers and newsletters "kept score" on the increasing numbers of communities holding elections, congratulating them by name. Support teams from regional non-profit and health corporations also added their voice in support of elections.

The local option law placed additional burdens on both public and non-profit agencies. The Office of Elections, the Department of Community and Regional Affairs, the Department of Law, the Department of Public Safety, the state court system, RurALCAP, and the Alaska Legal Services Corporation all encountered an increase in their workload. With the exception of the three-year ALSC Alcohol Project, the state does not appear to have increased the resources of these agencies specifically to meet the increased load.

The ALSC Alcohol Project was funded via a competitive process by the State Office on Alcoholism and Drug Abuse to develop an "alcohol and law" project and to develop legal and quasi-legal approaches to the problem of alcohol abuse in Alaska. By the end of the three year project, approximately \$364,000 had been expended, 74 local option law elections had been held, and 51 communities had voted for "no sale/no importation."

Without such a project and the accompanying level of funding, the responsibility for advertising and explaining the law to the villages might have been left to the network of government and non-profit agencies which had formal roles in the law. ALSC provided an ongoing, single-purpose project to be the core of implementation.

ALSC appears to have been a good choice within this network, because it:

- had a reputation for civil rights and community activism
- had recognition from and standing within the state's judicial system

-- had no affiliation with either the alcohol industry or the alcohol treatment industry.

ALSC played a "broker" role during these years, coordinating the different tasks and challenges in front of communities and state agencies. However, it was far more than an active conduit of legal information. It assisted other agencies to understand and fulfill their obligations, it provided as much information to communities as they could rapidly absorb, it wrote the basic documents for the state in the Voting Rights Act delay, it prepared background briefs on the legal interpretations and implications of the law, and it assisted communities in their efforts to control alcohol.

Like the other non-profit agencies encouraging communities to consider and make use of the law, the project appeared to be motivated by two overlapping or intersecting concerns -- 1) understanding and using the legal powers available to communities, and 2) helping to reduce the rate of alcohol consumption and related problems in rural villages. To the degree that, from time to time, the concern about alcohol itself may have dominated the concern about rights education, this was probably a natural response to the nature and level of expressed villagers' concerns.

On the whole, the concern of the project was more with legal than alcohol issues. Its own reports describe it as "an experimental grant designed to ascertain whether the use of legal tools would assist in the prevention of alcohol abuse."

"The underpinnings of the ALSC grant are to cooperate with all groups knowledgeable and concerned about or involved with local community control over alcohol, to provide legal assistance whenever it is desired or requested by a community, to provide educational services and assistance on request and, generally, to provide direct legal services with respect to alcohol and breathe life into the alcohol 'local option' legislation."

This last item -- breathing life into legislation -- is perhaps the most

salient point. There was a reasonable probability that, without such a project, the legislation would have remained passively on the books, accessible to only those communities with sufficient sophistication and support from non-profit agencies. In addition, the project educated not only village residents but troopers, non-profit agencies, and others about the law.

The core ALSC project personnel worked at a hectic pace throughout the grant period, travelled a great deal, made numerous presentations to village and other meetings, wrote many letters of explanation and briefs, worked closely with allied agencies, and left carefully crafted media presentations to explain the local option law to interested persons after the project was completed. Project staff offered their services to villages which then called, wrote, or otherwise communicated some interest in the law. On occasion, only a minority of residents were interested in the law, so that project staff were sometimes addressing relatively hostile or indifferent audiences. Project staff returned to the same communities, upon invitation, to further explain the law, to explain it to new audiences, to clarify questions of legal empowerment and voting procedures, and, following an election, to discuss issues of enforcement. In effect, then, the project constituted an extraordinary effort to inform the public about legislation and to assist them in implementation.

There was, over time, a set of serious issues confronting the project. For example, there was some concern that sending a petition for each option to villages would only confuse them in their electoral process when the villages really wanted to consider only "no sale, no importation." Staff were divided over whether or not the "single petition" approach might not be paternalistic in that it did not concurrently and equally portray, in terms of rights education, all of the choices available to the village. Initially, the single petition approach was used, followed mid-way through the project by the "four petition" approach.

The four petition approach seemed more in keeping with the project's expressed neutrality about the outcome of elections. The project did not want to be seen, as it often was seen, as a local option law "sales job", a view derived, in large part, from the project's (and villages') perceived focus on the "prohibitionist" Options #3 and #4, and the lesser attention paid to the "expansionist" Options #1 and #2; in addition, the project also assisted communities in formulating their liquor license protest. Both of these actions may also be interpreted as merely responding to village's desires and requests.

Some observers felt, conversely, that the project gave the villages too much information, confusing them instead of "informing them of their rights." These observers did not want the project to inform the villages of the other three options. In addition, both village officials and some residents were aghast that the project staff informed the public of the limitations of the law, particularly:

- that it did not ban possession, manufacture, or consumption
- that it was not self-executing
- that enforcement was constrained by constitutionally-guaranteed individual rights
- that it superceded emergency and some other ordinances.

In particular, the project was criticized for telling villagers that they could make, possess, and consume significant volumes of homebrew even under Options #3 and #4, information that was new to some residents and viewed as "expansionist" by some meeting attendees. Some concerned persons stated that the communities would be better off without this information. The assumption was that, if residents did not know that homebrew would be legal under all conditions, the community would assume that it was illegal and would hesitate to produce it. This was another instance of the state and the project telling the

lleges that, no matter how much they desired to do so, they could not vote themselves "dry."

With the voluntary end of the Project came the end of this energetic advocacy for the law. Although the Project maintained a basically neutral position regarding the local option statute, the staff were visible and thus served to advertise the existence of the law and continued the process of community involvement.

It can be speculated that the majority of those communities interested in the local option election have already voted and that the pace of new elections will decline. The Alcohol Project not only facilitated the legal refinement of the law; but, in so doing, publicized the law and kept it "current" throughout the state. The early departure of ALSC from the implementation process may have been premature, since the villages had not yet requested it nor is the Local Government Assistance branch of DCRA (together with some assistant attorneys-general) likely to be as activist as is ALSC. Perhaps the extended presence of ALSC would have been counterproductive, had it been close to the extralegal modifications used by villages to meet their needs. It may even have resulted in ALSC representing persons violating the local option law, but whose civil rights were diminished by community extralegal enforcement methods.

There is some concern that, without the project, the powers inherent in the law will remain only passively available and that villages will have to expend more energy trying to locate their newly available power. There is also concern that the experienced limitations of the law, its failures in some cases to meet community objectives, and the potential bureaucratizing of village concerns and education might limit its overall utilization by villages.

It is too early to assess the overall role of the project in the implementation of the law. Until more communities experience assistance from government and non-profit agencies in their quest for alcohol control information and legal

training, no such assessment can be made. However, the authors cannot leave this topic without mentioning one significant issue. Throughout the development and implementation of the local option law, ALSC project staff initially seemed to take for granted the appropriateness of state-designed external legal solutions to a basic problem of social health and community self-governance. Consequently they became active agents of acculturative change, not significantly dissimilar from the historical forces of western change which have, in part, created social "dis-ease" in Native villages. By "making the law work", rather than merely communicating information, some other advisory options may have been forestalled. Perhaps there is no avoiding the fact that "simply" providing a package of legal and electoral information inevitably contains the potential for catalyzing unplanned significant change in the personal and communal life of villages. This is particularly sensitive when the issue is not only law, but the power of self-governance.

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III. Community Purposes and the Local Option Law

What purposes do community residents seek to accomplish, if possible, through the local option law? Conn (7, p. 43) notes that in 1962,

"Eskimo Representatives constantly probed the illusive, seemingly irrational state law system for answers to the liquor problem as they understood it. They perceived the key to the liquor problem to be the supply available to young men who endangered themselves and others as they traveled from the town to the village and as they traveled into the villages. The representatives of state law emphasized the restrictions which the law placed on control of alcohol supply and suggested that these could be overcome by prevention at the village level by the council and, secondarily, by state police. State legal representatives offered no solution to the apparent chain of causation between the liquor store in (the regional hub) and accidents and deaths in the river and the village."

It was clear in 1962 and remains clear today that the villages' concern with alcohol is neither a moral judgement nor worry about the individual personal health implications of ingesting alcohol; the basic concern is the death of village members, particularly death among the young men. The deaths of young men, while terrible personal and family tragedies, constitute a major cultural concern. Many respondents consider that the future of their culture is dependent solely on the traditional values and the caliber of the future community leaders, that is, the young men of the community. They see youth and young people damaged by alcohol (through absenteeism from school, failure in school, disciplinary problems, work incompetence, excessive immediate self-gratification, accidents, suicides) and attempt to enlist parents, other adults, teachers, police, and others in controlling alcohol use. The language used to support alcohol control measures is replete with references to "protecting my people" and ensuring that "children can become the leaders."

Holding a local option law is a reaction to the successful control efforts of other villages, to the failure of past alcohol-control efforts, and to the tragic events, such as homicides, suicides, and accidents which continue to be

the most pressing public health problem in Native villages. The threat that alcohol poses to health is less in the area of serious but delayed effects, such as cirrhosis, alcoholism, and fetal alcohol syndrome, than in the immediate effects on mortality. The delayed effects are considered dangerous as well, but have some of the elusiveness that characterizes the village view of drugs; that is, effects such as decreased performance and inability to concentrate are viewed as somewhat less visible and critical than the public safety problem of dangerous alcohol-related violence. However, the education and prevention programs are now increasing the awareness of long-term health implications of drinking.

While everyone in a village becomes rapidly aware of alcohol-related violence, the awareness of and knowledge about alcohol use and personal problems appear nonrandomly distributed throughout a community. For example, the health aide is most likely to have a regular and routine flow of information due to his/her role in dealing with the medical and psychological correlates and consequences of alcohol use. This information is seldom transmitted to the village due to the confidential nature of such information.

Other members of the community are likely to have a less well-defined awareness of the problems, relying primarily on only those behaviors that are visible and, therefore, of public concern. Behavior that occurs in private remains far less visible or of concern to residents. For example, the importation, use, and consequent behavior of much drug use remains invisible. Drugs are easily transported and the behavioral signs accompanying the use are not familiar to all community residents. Thus, the community concern about drugs often is based more on hearsay than on direct observation.

Alcohol, on the other hand, commonly leads to a state of violence and serious negative events. Negative community events are a better predictor of village consideration of a local option law election than is technology transfer

adjacent or connected villages. Unavoidable awareness of the problem and promise of a potential solution are the critical elements in the village process.

Perhaps because a local option law election provides the first opportunity for all resident adults to record their view on alcohol, the petition-electoral process may assist in a redefinition of the problem. In some villages, for example, past meetings about the alcohol problem have been followed by attendees becoming drunk. They may have agreed on the collective problem (e.g., violence, victimization, fear, loss), but not seen themselves as part of that problem. An election may suggest that they are, indeed, part of the problem or, at least, that the common good requires them to participate in the collective response.

The utility of a local option law election following one or more tragic losses may be less in the solution offered by the law than in an election's ability to shift the focus of attention and emotion away from the individual loss and toward an identification of, consensus on, and action toward the underlying problem and its potential solutions. When the loss of an individual becomes understood as the loss of the community, culture, and a culture "carrier", more energy is released toward solutions and more license is granted to publicly discuss and analyze the loss rather than bury the loss in private mourning.

In some communities, it was reported that, after the local option law election was held, residents became more involved in community affairs unrelated to alcohol-control; residents suggest that the election process has helped them make other types of communitywide decisions.

It is possible that holding a local option law election is indicative of a village already in control or in the process of acquiring control over itself and its future; thus, the defeat of an option in a local option law election may be less significant in that community's life than another community's inability

to hold an election to come to grips with its problem. It is suggested that a local option law election may not create a healthy community but may be indicative that a community is becoming healthier.

In the petition election process, the community discussion of the problem and the establishment of community consensus became the important products. Certain communities decide not to petition to hold an election because they feel they can more effectively enact their own control measures. Other communities soundly defeated an option and subsequently passed their own unique ordinances which more exactly matched their local needs.

The local option law was reported to have contributed to significant consciousness-raising in the communities. Immediately upon enactment, state agencies were inundated with village-initiated contacts and questions. Having a concrete new tool seemed to mobilize community action that had been dormant due to lack of means to effectuate objectives.

Many community members hope that the selected option will be self-executing, that is, that the community decision, having been made, will:

- will not require extensive reporting of members to enforcement authority
- will not require extensive enforcement by internal or external authorities
- will not be regularly or significantly violated
- will result in an end to the manufacture, importation, sale, possession, presence, use, and consumption of alcohol
- will be a permanent feature of community life and custom.

In effect, these members hope that the simple action of achieving consensus through the election process will result in these positive changes. This somewhat "magical" set of changes is derived in part from their fear of continued alcohol availability and from the imagery of traditional law.

Older residents, in particular, expect the law to be self-executing since, in their memory of the past, some of the traditional authority had been absolute in its effect. Other community members somewhat more realistically anticipate a rapid increase in required enforcement effort and the development of credible penalties.

Those who expected the law to be self-executing were most disappointed to discover the limitations of the law and the law enforcement system, the freedom of action displayed by other members, the potential impermanence of the decision, and the necessity for a variety of additional community efforts. Some communities appear unprepared for these additional social and cultural costs and unwilling to meet these costs.

Many were surprised that their "intentions" were not contained in nor addressed by the letter of the local option law. They "intended", as noted above, that alcohol be totally prohibited; the language used to refer to the local option law is, almost universally throughout the Bush, "dry". "Dry" means no more alcohol, no more drinking, and no more drunks in the villages; it also means the power to enforce prohibition, including an end to homebrew and the right to search for and seize privately-held alcohol. Since village residents correctly see the local option law as having been written specifically for them, they do not understand why the law did not provide them with the tools necessary to accomplish their objectives. Many also do not understand why options other than "no sale, no importation" were provided. Rural advocates have contributed, in some degree, to village expectations that greater powers than those provided in the local option law could be or would be provided by state law, even though many villagers' purposes would have resulted in unconstitutional powers.

While many communities eagerly took advantage of the local option law, particularly Option #4, most did not view this most stringent option as the most

effective tool. Many suggested that they would have voted for "no possession", "search and seizure". Some communities were enforcing "no possession" and "search and seizure", until they were challenged on the legality of their actions or counselled by state troopers and magistrates. These communities were attempting to achieve "dryness", not a more "normal" state.

Many who listened carefully to ALSC presentations were horrified to find that ALSC not only explained that "no sale, no importation" did not mean "dry", but that ALSC, by pointing out the right to make and consume homebrew, seemed, by extension, to be encouraging its use. Others attending the same meetings tended to either not perceive or believe the distinctions made by ALSC, remained convinced that the local option law would result in "dry" villages, and conveyed this understanding to other village residents. It is not surprising that, following a local election adopting one of the options, villagers would be disappointed to encounter several unanticipated realities about the law, such as no provision for search-and-seizure, no restriction on possession, no prima facie relationship between possession and implied importation, no assurance that the new law would not or could not be rescinded by a future election, no awareness of the complexities of evidence and legal process, high and unreasonable expectations of immediate and automatic trooper enforcement, and expectations that the law would be "self-executing."

It is apparent that villagers also were unaware of:

- their increased responsibility for reporting on, swearing out complaints against, and testifying in court about their relatives and friends
- the potential ability to use a local option law election to introduce alcohol sales in the community.

The misunderstandings surrounding the law are many and important, regardless of the great efforts of ALSC and other agencies to communicate the law and its implications completely.

Purposes and concerns contained in the village decision-making process included unusual uncertainty. Villages were uncertain not only about the purposes served and procedures required in selecting an option, but the potential loss of control over penalties they think are appropriate for both the offender and the community. They believe that the penalty for misdemeanors are mandatory. They also appear to equate misdemeanors and felonies, expecting that a local offender importing a single bottle might be liable to a \$5000 fine or a jail sentence. They are uncertain whether the local and non-local magistrates will respond to community desires for either very stern and/or very flexible penalties for local offenders, depending on who the offenders are and the risk they are perceived to pose for the community. Both incorporated and unincorporated communities are uncertain about the implications of the local option law on village (or city) council governance; that is, these communities often resolve community problems through the rule-making or ordinance-making function of the council. Direct electorate voting is less common and voters are uncertain whether government will, may, or must pass implementing ordinances (definitions, penalties) or whether the terms of the option may be modified (strengthened, weakened, or altered) by council action; for example, some communities have expressed a desire to relax the rules or the enforcement during specific periods of celebration and do not know whether they or their council can accomplish this.

Some felt that a successful local option law election resulted in a new community power -- the ability to become "dry" by implementing ordinances. They seemed to desire more legal assistance in "writing up" these implementing ordinances 1) to meet community conditions and needs and 2) to be enforced by troopers and the courts. In effect, then, their view of the law is not a selection among options provided by the state, but a new power supporting and imple-

mented by more traditional and local means.

It is clear that the discrepancy between the perceived powers and real powers was not discovered in most communities until after the local option law had been held. Many elections were the result of a rush of events -- a failure of an emergency ordinance, a recent series of tragic events, excitement in the news of a local option law, a visit by the ALSC alcohol project and/or other interested agency, and so on. It was only in the implementation stage that the discrepancy was discovered; this discovery was often accompanied by demoralization and/or a renewed intense commitment to achieve their intentions, regardless of what they had been informed was possible under the law.

Why did these misunderstandings occur and could they have been avoided? Some of the misunderstandings were due to a failure to uniformly and universally communicate to the voters the strengths and limitations of the law. This failure to communicate is due, in turn, to a combination of factors:

- lack of a thorough grounding in western law, civil rights, law enforcement procedures, and electoral procedures among Alaska Natives
- inability of agencies to transmit, in an understandable and objective fashion, a complete, authoritative, and accurate picture of rights, responsibilities, systems, and procedures
- excessive reliance on these agency communications by remote Native communities
- deliberate misinformation provided by local option law advocates and opponents; for example, one community was informed that, under Option #4, "people wouldn't be prosecuted for bringing in small amounts of booze"
- the uncertainties surrounding the real, as-yet-unexamined or untested meaning of new law; "...since the letter of the law formed out of statute and case law is essentially reinterpreted through direct explanations, acts, or inaction by professional operatives in rural

- Alaska, the message of the law as written is in fact only a portion of the whole process of legal experience for rural residents." (8, p. 28)
- the intensity of villagers' desire to have the law mean what they wanted it to mean
 - the normal problems in communicating factual information; that is, what is said, how it is said, what is heard, what is remembered, what is translated, filtered, misunderstood, or distorted.

Since many villagers did not attend ALSC community meetings, these villagers had to rely upon use of media and information from those who had attended these meetings. Since the local option law has implications far beyond the language of the law, the interpretation of these implications becomes quite complex. Deliberate and accidental distortions leave residents unprepared for later realities. Corrections of these misperceptions are often not heard, translated, or accepted by voters.

It is clear that whoever controls information in these communities will have a great deal of control over the outcomes of elections. In the zealousness and righteousness of the alcohol-control effort, much of the dissemination of information will, of course, be selective. In some ways, no matter how thoroughly and clearly the factual information presented by visiting agencies may be, later discussions will still revolve around what people wanted to hear and thought they heard; the election will be the result of these later discussions more than of the factual information.

This suggests that it may be insufficient to provide legal education and assistance to a community only in advance of a local option law election; even more assistance may be required following such an election, to properly inform the citizens, the council, the local law enforcement entity, and the local magistrates. Failure to do so may result in significant dislocations and

decline of community morale.

IV. Village Character, Alcohol Use, and Control History

A. Alcohol Use

There is a popularly-held belief that Alaska Natives have a special problem with alcohol, that somehow they are uniquely susceptible to its effects, unable to control its use, and unable to control their behavior when intoxicated. This special problem, it is suggested, forecloses their ability to be subject to social controls while drinking. This belief is directly supportive of a particular remedy external to the individual or group -- prohibition, in any of its several forms.

An alternative view is that Native drinking patterns parallel the changing drinking patterns as they are manifest in the United States and elsewhere. This view suggests that Native drinking patterns are new behaviors learned from observation of the white men who first brought alcohol to Alaska and of white men seen intoxicated in regional centers. These patterns of consumption and intoxicated behaviors, it is thought, were modified by the peculiar patterns of distribution and law enforcement in earlier times and are now further modified by functional social purposes of alcohol use in modern Alaska villages and towns. In this perspective, alcohol use is a form of self-medication during a period of unacceptable rates of loss and change. In this regard, the villages' attempt to prohibit access to alcohol is based on the same consideration -- an unacceptable rate of loss, through death and disability, of its valued young people.

In this latter view, "Native drinking" is really "poverty drinking", the result of demoralization, loss of control, loss of roles, and intermittent access to money, indistinguishable from drinking in American urban ghettos. As men lose their economic roles, as women find greater access to wage employment, as young people's access to alcohol increases, and as alcohol use becomes part of peer interactions, patterned learned drinking behavior becomes a routine part

of community life.

The learned behavior that often results is binge drinking and drinking that finishes only when the alcohol runs out. The other behaviors that are learned are drinking for social closeness, stress release, and to improve morale.

There is no clear indicator which of the two perspectives about "Native drinking" noted earlier is going to prove more useful in decreasing the rate of negative events. However, it is quite likely that prohibiting the sale and importation of alcohol alone is going to be an insufficient response to the greater problem of demoralization and loss. Depending on what measure one uses, alcohol use and abuse, no matter how prevalent and pernicious in the lives of Native families and villages, probably should not yet be considered to be a universal or permanent cultural phenomenon in their lives; that is, were these multitudinous and uncontrolled transitions in their lives to slow or cease or were they to feel less powerless and alienated when dealing with change, alcohol might cease to be such a universal solvent. To the degree that alcohol is not yet a "cultural factor", limiting its availability by edict will be of less cultural significance than whether the edict derives from and is consistent with more important cultural factors such as kinship, family, leadership, authority, rule-making, social control, and the expression of feelings.

Attitudes toward drinking, drinking patterns themselves, and approaches to drinkers and their behaviors vary widely across Alaska regions, based on both cultural and historical differences. Culture dictates much in terms of thinking and, therefore, drinking patterns. Some cultures perceive reality in terms of absolutes, good/bad, white/black, wet/dry, leading them to seek absolutistic solutions, such as prohibition, no possession, and so on. Other cultures are far more relativistic, leading to the notion of drinking in moderation and moderate forms of social control and intervention into others' lives.

In an absolutistic culture, where there is only wetness and dryness, the result of all drinking is to get drunk, not a purpose but an inevitable conclusion. This is compounded where the missionaries have taught that the "devil is in the bottle", not in the person. This means that a bad event or behavior is not "my fault" or "his fault", but the "bottle's fault", thus exonerating the person from the negative results of drunk behavior. When violence is explained by "the bottle", community panic sets in when the same violence occurs without preceding drinking, without being "under the influence". Domestic violence when sober has no explanation, excuse, or rationale in a village and is viewed as far more dangerous than the same abuse when drinking. Without alcohol, the behaviors, the locations, or the victims would have to change, since direct personal responsibility for violations of cultural rules could not be diverted to "the bottle".

The more that alcohol is accepted as a functional substance, the greater, of course, will be the difficulty of designing, enacting and enforcing appropriate controls in the use of alcohol and behaviors while using alcohol. The more that villages view themselves collectively as unable to drink and behave in moderation, the more difficult it will be to believe in the exercise of local or internal social controls.

Drinking serves a number of social functions in Alaska villages, only some of which have been explicitly explored. The behaviors which are related to the function being served may be viewed as either positive or negative, depending on the values of the individuals and observers involved. Most societies provide some form of "time out" ceremonies or rites, during which members are sanctioned to vent their feelings. Often, the smaller and more closed the society, the more necessary it is to use these accepted opportunities. The social functions of drinking, celebration, release of tension, and relaxation are recognized by community members in the evaluation of "exceptional" behavior. In some areas

(1, p. 84-7), drinking is a dominant social activity which "retains the flavor of the traditional ceremony." It releases pent-up emotions and the strain of work, but is not disruptive to community, family, or work roles.

These periods of release do not always occur in the villages. In those communities which have traditionally disapproved of alcohol or successfully controlled alcohol, it is common for residents to "party" away from the village, particularly in the hub communities. It is common for these persons to be reported back to their communities as appearing to be "a totally different person." These persons also tend to not bring back their alcohol or related behaviors with them on their return.

In other settings, particularly those where residents may feel powerless and alienated from important aspects of their lives, drinking behavior becomes negative and often violent. It is these behaviors that give rise to the consideration of placing controls on alcohol. Availability of alcohol may be less significant than availability combined with these significant emotions.

Role loss during periods of major economic transition and displacement places individuals at great risk to alcohol related dependency and problems. While, for the whites, an adult is known because he/she "behaves as an adult," for Native cultures, an adult is known because he/she "is needed to do adult things." Among Natives, loss of adult tasks leads to a form of infantilization. Loss of roles, via loss of traditional economic tasks, decision-making authority, and family organization, results from a variety of sources -- changes in community economy, wage employment, subsistence employment, education, travel, marriage, religion, and governance -- most of which are not directly under direct community control.

Alternately, new non-traditional and stressful roles create hazards for individual residents. Different roles in the village (such as council

member, mayor, health aide, alcohol counselor, VPSO) result in different stresses, making these persons most vulnerable to bad events. For example, a health aide has complex and important tasks, is available 24 hours a day, has access to drugs, carries around the weight of intimate (culturally inappropriate) knowledge of physical and social facts in the community, has to appear unbiased, has great medical responsibility without either the technical skills or organizational ability to divert the responsibility, and internalizes many community problems as the community assigns its responsibilities for health to specific individuals.

Some of the healthiest people in the community may be at the highest risk for serious alcohol problems due to the social pressure related to their performing well on the village's behalf. These persons, who appear most successful to outside observers by their standards, are in reality doing everything to meet everyone else's expectations. This is, in actuality, a loss of control over their own lives and a tying of their own fates to events in the uncontrolled real world. Their feeling of loss of control over their lives often leads to unhappy personal outcomes.

1. Community Culture and History

There does not appear to be a single generalizable model of alcohol use encompassing all Alaska Native villages. Each community appears to have its own changing rhythm of drinking over time, based on its

- geographic isolation
- historical isolation
- economic isolation
- political isolation
- religious character
- traditional character

- cultural controls
- social controls
- family controls
- availability of alcohol.

These factors, among others, combine to form what may best be called the "culture" of villages. Villages have characteristics which precede the use patterns of individuals; that is, a village will have a culture which will dictate what is considered appropriate or permissible in the function and use of substances. What one does under or together with the use of alcohol is, in a sense, meeting the expectations of others. This accounts for the surprise experienced by drinking persons when their behaviors are rejected in non-home communities.

Drinking patterns and problem-solving techniques (such as suicide) are determined by the village culture; as one result, suicides are perceived to be somewhat less conceptually troubling to those villages where suicide is considered to be a normative means of solving problems. For example, one suicide-ridden village will not see itself as troubled because it is so accepting of bad events. It will not see that its old people hide in their homes in the dark while parties are going on, in the hope of being left alone by abusive drinkers. It will not admit how much anger there is, expressed in prejudice against outsiders, such as whites and others, and in the turning of anger against themselves and others. Thus, a village culture contains many of the roots of drinking patterns, rationales, excuses, and behaviors; persons often act in accordance with the expectations that are communicated to them by the village.

A significant part of village culture is attributable to changes induced by contact with outsiders. We have suggested that alcohol use was a relatively recent phenomenon in the lives of Alaska Natives, particularly compared to their long cultural development prior to contact with whites. While contact extends

member, mayor, health aide, alcohol counselor, VPSO) result in different stresses, making these persons most vulnerable to bad events. For example, a health aide has complex and important tasks, is available 24 hours a day, has access to drugs, carries around the weight of intimate (culturally inappropriate) knowledge of physical and social facts in the community, has to appear unbiased, has great medical responsibility without either the technical skills or organizational ability to divert the responsibility, and internalizes many community problems as the community assigns its responsibilities for health to specific individuals.

Some of the healthiest people in the community may be at the highest risk for serious alcohol problems due to the social pressure related to their performing well on the village's behalf. These persons, who appear most successful to outside observers by their standards, are in reality doing everything to meet everyone else's expectations. This is, in actuality, a loss of control over their own lives and a tying of their own fates to events in the uncontrolled real world. Their feeling of loss of control over their lives often leads to unhappy personal outcomes.

1. Community Culture and History

There does not appear to be a single generalizable model of alcohol use encompassing all Alaska Native villages. Each community appears to have its own changing rhythm of drinking over time, based on its

- geographic isolation
- historical isolation
- economic isolation
- political isolation
- religious character
- traditional character

back over one hundred years, contact did not occur simultaneously or ubiquitously for all Natives in all regions.

Coastal people were first to encounter Russian and American commercial ventures, through trading, whaling, and so on. These contacts led to an introduction to alcohol as a valued commodity and also to the skills for home-brewing and distilling. These early contacts also led to the introduction of western religion and language, the outlawing of traditional religious practice and traditional language, and an induced dependency upon western goods. Alcohol occupied a central role as both a commodity of exchange and a replacement for banned ceremonial activity (1, p. 20).

Many Interior people tended to encounter westerners at a later time, through western exploration, trapping, mining, missionary work, and other enterprises. Many communities remained remote from these contacts due to their geographic and resource situation. Some elderly Alaska Natives, alive today, retain the vivid memory of when they, as children, and their parents saw their first white man.

In the late 1800's and early 1900's, most village Natives made their living hunting, fishing, and trapping, as they had always done. They would drink on their intermittent visits to the trading hubs until their money or goods were gone or the homebrew was finished, and then return to their village "dry". It was primarily Natives residing in hubs who had serious alcohol problems, due to their proximity to wages, a ready source of alcohol, and the white role models.

Periodic visits by territorial commissioners and officers, during whaling and open ice periods, would result in the confiscation of alcohol possessed or made by Natives and the brief arrest of the offender. Outsiders were seen to have introduced the alcohol and outsiders were seen as the force required to remove it. During this period of intermittent supply and covert use, Natives learned the value of consuming all the available alcohol immediately or running

the risk of losing it.

In the 1910's and 1920's, bootlegging became a more prominent economic activity, while enforcement continued to lag behind. More homebrew and moonshine became available in both white and Native communities. Natives continued to drink primarily in the trading hubs visited seasonally by barges or steamboat and, only secondarily, in the villages visited by traders. As trading and transportation increased and improved, the hub villages were literally "turned upside down", unable to control, protect, or care for themselves.

In the 1920's, there was a great increase in the making and consumption of homebrew due to the 18th Amendment; this source declined steadily over the ensuing fifty years, although it continues to be a problem for many villages. Federal marshals provided what enforcement assistance there was and, in the memory of some older Natives, were more effective than is the current system of protection.

In the 1930's and 1940's, there was a decline in subsistence economic activities, and a rise in the number of schools, wage jobs, and the population and roles of hubs. Increases in the availability of cash and regular visitation to hubs resulted in the major change from intermittent drinking to year-round drinking. It also altered the past patterns of seasonal celebrations, where visiting and fun had been accompanied by drinking and were not done for the purpose of drinking.

In the mid-1940's, many villages still did not tolerate their members to be drunk in public, even during major celebrations. Elders, chiefs, and councils still ran the communities with a good deal of authority. The hubs became populated and dominated by whites during the World War Two buildup of the transportation and communications systems. There has been a steady increase of military and non-military government employees since that time, until, in some hubs, government is now calculated to provide 90% of all direct and indirect

employment opportunity for new and old residents. Housing, school, and other construction brought in large numbers of jobs and outsiders who were not under village authority; younger people began to learn how to drink and ignore the elders. Wage employment, ability to travel, and survival and economic independence and individuation led to the breakdown in the authority of the old over the young, in which alcohol use was more a consequence than a cause.

By the early 1960's, only the most remote communities were still relatively free of the most serious problems caused by these significant economic and population changes. The problems were created less by the history than the substance of the changes which included:

- permanent settlement of seasonally migratory people
- split families, with mothers and children in communities and husbands were away in pursuit of wild resources
- seasonal, intermittent job opportunities and transfer payments underwriting male settlement in villages, creating economic dependency
- loss of past economic activities (e.g., trapping, hunting, mushing)
- lack of sufficient employment and employment preparation (e.g., new employment opportunities created by university, schools, fish and game, FAA, RCA, PHS, and utilities tend to hire outsiders; local and non-local schools do not prepare residents sufficiently for entry into the local job force)
- increase in leisure time, filled in by idle use of television and alcohol
- television and alcohol, as addictions, breaking into the transmission of information, problem-identification, problem-solving, sharing of concepts, language, traditions, values, philosophy, technology, history, crafts, and so on

- increase in intergenerational conflict, the younger generation growing up with high expectations, but few opportunities or roles

The consumption of alcohol in the past by entire communities used to be intermittent, to occur around holidays and celebrations, such as religious festivities and birthdays. Commonly, relatives would make enough homebrew (often no more than 10 gallons) for the celebration; when this amount was consumed, celebrants did not go out looking for more. More recently, parties have become more prevalent and regular, with the negative results appearing in school truancy and declining student performance. In addition, when parties ran out of alcohol, they found and a ready supply exists from local stores and/or bootleggers. They also began to drink in non-celebratory patterns -- individualized, isolated, all day, every day -- to, as many respondents noted, avoid dealing with their problems. In summary, what had changed was:

- the supply and use of alcohol had become regular rather than intermittent
- as transportation improved, wages increased, and relative costs declined, alcohol became more readily available through the year in each region, so that people could drink more of the time
- the use of alcohol was reported by many as shifting from older adults to younger adults and to become both problematic and chronic as availability improved.

It was reported that when the adults attempt to ban sale and importation, their "model" or "objective" is the "dry" state common to village life when alcohol availability was so intermittent.

B. Village Alcohol Control Efforts

It is into this cultural and historical setting that the local option law, among other legal mechanisms, was introduced. It is a common belief that long-established behavioral patterns are not amenable to the intervention of law.

While this may or may not be the case, it is important to examine what is meant by "long-established."

The history of the penetration of alcohol as a substance and as a source or concomitant of behavioral problems suggests that, while alcohol has been perceived as a problem by villages from earliest times, the actual magnitude of the problem has risen dramatically and recently. Thus, the rise in the concern expressed by villages is less reflective of changed perceptions than of the rising rate of community losses and previous failed attempts to acquire control over alcohol.

A generation or so in the past, many communities had no "alcohol problem"; there were, to be sure, problem-drinkers and federal authorities were very concerned about bootlegging. But many communities were basically "dry" with local rules disallowing drinking. In the 1960's, as more money began to flow into villages, more alcohol flowed along with it. Villages found that they did not have the social control means to stem this flow with any great degree of success, nor the problems that emanated from this flow. In earlier times, villagers died of sickness, old age, and unavoidable accidents; more recently, younger people began to die, related in part to their use of alcohol. It is this change which appears to have prompted new law-making in villages, accompanied by increased law enforcement, cultural revitalization, and religious and social supports.

While most respondents note that individual, intermittent, and tragic alcohol problems have been around in villages for a long time, they suggest that alcohol as a village problem has arrived more recently and rapidly, coincident with the other rapid social and economic changes in the villages particularly in the period from the early 1950's to the late 1970's. One respondent from an Interior village suggested that the full dimension of the community alcohol problem "was so new that people didn't realize what was happening to them."

Conn (7, p. 68) notes that

"although drinking was known to occur in Southwestern villages since the turn of the century..., the problem of alcohol traffic and consumption which village leaders confronted in their [early 1960's] discussions with state officials was of an entirely new dimension. It was as open-ended as the availability of liquor was open-ended. A social consensus, especially one that restricted universally individual rights to possess, use and share liquor, was hard to articulate and confirm through council action. State law agents provided no direct support for suppressing liquor use."

In the ensuing years, village leaders continued to search for social control mechanisms to stem the flow of alcohol. It is not difficult to understand why, in many villages, the problem of control seemed insoluble. Alcohol was only one of many forces eroding the traditional sources and modes of authority accompanying increased contact and basic economic change. While traditional sources and modes of power continued to be exercised over traditional problem areas (such as hunting and fishing), the magnitude, nature, and interactions of the new problems exceeded, at least for a time, the capacity of the village to deal with them effectively. This phenomenon is not unlike that experienced by rural communities anywhere during a "boom" period in their history. That period may not be permanent, but the problems experienced during it seem far beyond the capacity of local people to handle.

This suggests how powerful and destabilizing a force alcohol can be when the conditions with which it is associated or under which it is used or its purposes or functions are changed. Its role in social transformation, under periods of great and rapid change, is greatly potentiated and is properly viewed as dangerous to cultural and community futures.

In a small number of communities, alcohol has been traditionally outlawed. These communities, marked by different forms of remoteness, limited immigration or outmigration, and strong leadership based on traditional rules and religious precepts, have had only intermittent bouts of difficulty with alcohol. Other

villages, even with long histories of contact, had had manageable or tolerable experiences until more recent times. There is some suggestion that either the character or the self-image of certain communities or cultures is "controlling" so that they view themselves as in control of their personal and/or community fates. These communities may view the local option law as a unnecessary, redundant, and useless tool to reduce access to alcohol. These communities have had a long tradition of controlling access through internal formal governance (i.e., law-making, enforcement, trial, and punishment) and informal means (i.e., each community member sharing some of the active responsibility for controlling access and use). Some of the means used by these communities are legitimated by community consensus but may be illegal in that they violate the constitutional rights of residents; lack of complaint about violations is due, in large measure, to shared cultural and community values, respect for traditional and community authority, and a desire to live within the protected confines of a conservative but healthy community, that is, a sanctuary or retreat.

The sources of the continuing tradition of enforced "dryness" appear limited in number:

- geographic remoteness
- late contact with the outside world
- strong religious values from the origins of the community
- consensus about 1) the authority of the elected or traditional government and the community itself, 2) legal and/or traditional local sovereignty, 3) the merits of a conservative range of tolerated behaviors, and 4) absolute restrictions and tough enforcement being the only means to maintain a healthy lifestyle
- remoteness from state-supplied law enforcement agencies
- no tradition of extensive alcohol use, related problems, or tolerance of use
- a tradition of local law-making, continuous law enforcement, and reified attachment to the substance of the law and the pre-eminence of the law
- pride in having a good community reputation
- having the major penalty for law-breaking be temporary exile from community
- ability to control or maintain distance to nearby industrial development

- ability to control the behaviors of new Native and non-Native residents
- a healthy continuing subsistence resource base
- maintenance of distant relationships with government programs, resulting in reduced contact, fewer negotiated compromises, and greater self-determination
- family and cultural obligations which require extensive visiting and, thus, close uniform scrutiny of private lives as a form of social control and support.

While it is impossible to identify all of the roots of a "traditionally dry" community, these communities begin to acquire the reputation as being a "sanctuary" from alcohol and alcohol-related problems. It appears to be no accident that sanctuary communities maintain their basic consensus on alcohol prohibition:

- those members who cannot tolerate such close restriction tend to emigrate or export their activities
- those members who refuse to strictly abide by community rules are closely watched, counselled, penalized, exiled
- those members who violate the rules but whose behavior is not found troublesome are watched closely but not unduly punished
- persons who wish a retreat from more permissive communities are allowed to immigrate and settle in the village
- there is continuous discussion of, voting on, and enforcement of local restrictions
- there is continuous monitoring of the bad events in other communities.

The cultures of Alaska Native villages exist on a range of continua -- between traditional and western, between dry and wet, between controlled and uncontrolled, between community-focused and individual-focused, and between weak and strong; these are characteristics which villages often apply to themselves and to their neighboring villages as they evaluate themselves. These characteristics are important because, while no single community variable will predict whether a village will enact local option law legislation, villages which fall

at the most extreme ends of any continuum are least likely to hold a local option law election. For example:

- the most traditional communities which continue to exercise effective local authority are unlikely to hold an election because 1) the local option law would be redundant, 2) it would increase the contact with white law enforcement; however, some relatively traditional communities have held successful elections in order to have the state law as a "back-up" to local authority in controlling the activities of "outsiders" (e.g., teachers, alcohol distributors, air carriers)
- the most western villages are unlikely to hold elections because 1) they have adopted western attitudes toward drinking and control over individual drinking, 2) they have formal governmental powers to control retail activities, 3) they have an economic stake in local retailing, and 4) they have a smaller investment in maintenance of culture.

It is probable that, when we talk about traditional, dry, strong, controlled, community-focused villages, we are really talking about a single community character and that the same is true regarding western, wet, weak, uncontrolled, and individual-focused villages. It is also probable that most communities fall somewhere between these extremes and, thus, that many communities will have reason to examine the utility of the local option law.

In actuality, the use of the local option law appears to be most attractive to those communities which:

- 1) are predominantly Native in population
- 2) are not large regional hubs
- 3) are not on inter-community road systems
- 4) have not had continuous contact for a long period with (permanent and/or seasonal) outside populations or economic enterprises

- 5) do not have existing alcohol retailers
- 6) are in a period of controlled or directed transition
- 7) are assisted in this transition by regional or sub-regional political movements and/or institutions.

Conversely, the characteristics of villages which exercise neither formal nor informal controls are:

- extensive contact
- significant white populations
- direct road access to larger communities
- long history of no controls
- individual importation, rather than organized bootlegging
- no recent history of extensive internal social control
- improved access to larger communities.

It appears that the longer, more intense, and less intermittent the contact between the village and western life, the less likely the community is to entertain the local option law. Contact is considered to increase the likelihood of permanent white residents in the village, village acculturation to white occupations, industries, values, and drinking habits (characterized by some as "more mature", although it is difficult to translate this "maturity" into fewer behavioral problems).

For the purposes of this report, "contact" is considered to include:

- length of direct, indirect, regular, and intermittent exchange, visitation, immigration, and outmigration
- dependency on imported commodities (e.g., energy, food, tools, TV, money, etc.) and services (e.g., health, education, cargo transportation)
- availability of imported commodities (e.g., alcohol, cash, etc.)
- reliance on western institutional forms (e.g., corporations, city government, councils) to solve problems.

The more the local population consists of a mix of Native and white residents, the more likely the community will select individual rights over community rights and will not consider the local option law. However, demographic ratios are less determinative of being a more "white" or "Native" village than is the comparative economic power, political roles, values, and habits of these two resident populations.

Ease of transportation is an important factor in "contact." The greater the ease of transportation, particularly by private automobile, the less control communities feel they have over imported substances or the activities of residents. While transportation is easier now than ever because of aircraft, snowmachines, and powerful and affordable boat engines, inter-community roads which tie villages to hubs provide such ready access to alcohol that it is less likely and more difficult for road-connected villages to adopt a local option. However, some communities are on private stub-roads, not thoroughfares, and so can exercise somewhat greater control over importation. If bars and package stores are located on the road system outside of the village's limits (or other exempt lands within the boundaries), attempting to control sale and importation tends to result in exported drinking patterns and even increased accidents on the road system.

Availability of money and villagers' money management practices are important predictors of alcohol use. One remote village noted that money was so scarce that no one could afford to charter alcohol in, regardless of whether or not there was some form of prohibition. While cash unavailability is likely to result in increased production of homebrew, homebrew is most often made in small batches, quickly consumed, not in commercial size for sale and export. Since much economic activity in the Bush is seasonal, the availability of money, the management of that money, and the use of alcohol become problematic primarily on

a seasonal basis; seasonal problems are often seen to not require year-round solutions, such as the local option law.

As will be delineated later in this report, community actions are based, in large part, on the type, degree, and source of power available to and exercised by a village. A village which is not economically dominated by a single outside industry, which does not have resources actively being exploited by outside interests, and which contains a constellation of collaborative internal social control mechanisms both needs the local option law least and is most likely to consider it.

V. Alcohol Use Patterns and Regional Hubs

Recent years have seen a rapid and remarkable growth in the populations and functions of regional hubs, including the larger centers of Anchorage, Fairbanks, Juneau, and Ketchikan. Communities such as Barrow, Kotzebue, Nome, Bethel, Dillingham, Fort Yukon, Galena, McGrath, and smaller sub-regional transportation hubs have grown rapidly in importance. Many were, a few years earlier, larger Native villages developed around fishing, trapping, whaling, trading, and other forms of commerce. Now they are large towns, with significant white populations, city governments, and the entire array of services and agencies common to cities of far greater size. They serve as transportation hubs, seats of borough government, and corporate headquarters.

Due to their population size, demographic composition, economic activity, and other factors which distinguish hubs from villages, hubs are far more likely:

- to contain alcohol retailers
- to allow the sale of alcohol by the drink, the bottle, and the case
- to have more than one retailer
- to have large police units, detention and detoxification facilities
- to have attorneys, magistrates, judges, and troopers
- to have city ordinances and license restrictions governing the operations of retailers
- to have public-safety policies on the management of intoxicated persons
- to have after-hours retailers.

As a consequence, many of the neighborhood, policing, transiency, traffic, and other reported problems and concerns common to cities also appear in hubs.

Alcohol is readily available in all of the hubs, whether or not they allow retail sales. Since hubs do not have laws prohibiting importation of alcohol, the transportation systems which comprise the basic function of these

communities also provide sufficient quantities of alcohol to meet the demand of not only hub residents, but of their surrounding villages. The systems of mail and phone order service and bootlegging combine to provide a diversified supply to meet the tastes of a wide range of consumers, a flexible supply responsive to great seasonal change in demand, and at a price that, while higher than some other communities, does not constitute a significant inhibitor to use. In addition, given the high quality of air transportation services, call-in orders for alcohol from the larger cities can be in the hubs within four hours.

The histories of these hub communities, while different from one another due to different events which marked their growth, are similar to those of surrounding villages from contact on. These communities, too, were marked by a high degree of social behavioral control based on the authority of elders, chiefs, and parents. Alcohol use was frowned on and local laws were strictly enforced, with occasional support from federal marshalls. Alcohol was seen to be a bad and painful substance, more appropriate for tanning hides than for human consumption. Quickly, however, alcohol, particularly homebrew, became more prominent and bootlegging appeared as a significant economic enterprise learned from whites. Homebrew led to a deterioration in village quality of life and, in some villages, its manufacture and use were banned. Its manufacture and use became more covert; villagers did not object to homebrew as long as no one was seen to be drunk in the village, women and children were not frightened, and homebrew was not shared, given, or sold to others. Violations of these conditions were often heavily fined by local authority.

From the 1940's on, the prevalence of homebrew and the controls of it declined due to increasing contact and retailing of imported alcohol. Large numbers of casualties to alcohol began to appear, in the form of deaths, accidents, physical and emotional disabilities, and crimes. New populations, new

jobs, new experiences, and expanded and legal retailing of alcohol resulted in an increased presence of alcohol in the hub and the surrounding villages as well as a further erosion of the local capacity to control alcohol. From time to time, as problems increased, some hubs have banned the sale of alcohol and closed the local retailer. This resulted in increases in organized bootlegging as the distribution system became more covert. The intermittent nature of voting wet, dry, wet, dry, while inhibiting a highly formalized bootlegging system, has created, nonetheless, a continuing local enterprise. The rate of negative social and health indicators generally show a positive correlation between voting dry and a declining rate of the problems. However, the combined product of bootlegging and mail orders continued to provide ample, if more intermittent supplies of alcohol.

Whether or not a hub allows retail sales of alcohol, all hubs experience a certain amount of bootlegging to serve the after-hours demand, the chronic alcoholics, and the "dry" villages. That is, as communities place tighter restrictions on legitimate retail operations, bootlegging grows to fill the newly-created gap between demand and supply. Bootlegging results in a somewhat higher per unit price for alcohol and diversifies the economic benefits to covert entrepreneurs.

Bootlegging has been a significant economic enterprise in Alaska hubs for some time. In one subregional hub, for example, it was reported that in the 1960's forty Native families were making a living from bootlegging and from the manufacture and sale of expensive homebrew. Their base of imported alcohol was provided by regular charter flights from the then-regional transportation hub. Bootlegging did not originate with these families but resulted from their perceptions of charter pilots being successful at bootlegging and taking over the distribution themselves. Opening a retail alcohol operation in the hub put most of these families out of business, although a few remained to provide after-

hours sales.

Bootlegging, as a mode of alcohol distribution, comes in a variety of forms. There is a casual sale -- a resident returning with a case of alcohol and selling a portion to defray his costs. Bootlegging to and in the villages seems to be, predominantly, of the casual type. There is semi-professional sale -- someone tied to a hub and one or more villages, supplying a narrow range of clientele. And there is sophisticated bootlegging -- a formal and regular expediting service, taking large orders and charging high fees.

Bootlegging within the hubs is more prominent than from the hubs to the villag-es. Hubs which prohibit sale but allow importation invite bootlegging as a more convenient distribution system than each resident ordering his/her own supply from the city. In these hubs, the consumers tend to be Natives, while the whites order their own supplies directly. Hubs which allow retail sale (either bars or package sales) often limit the conditions of sale (e.g., hours) or substances of sale (e.g., beer only) while the demand for ready and wide access remains. Bootleggers will either import their own supplies or will make legal purchases from the retailer and resell the alcohol after-hours. It does not seem to matter whether the legal retail shop is owned by the community or a private concern for this bootlegging to occur. This form of bootlegging seems to be tolerated by local police, as long as the behaviors which accompany it are no more troublesome than that accompanying legal sale.

There is some similarity in the history of alcohol sales in the hubs, even though there are many differences in their character. Hubs choose to allow retail sale, based on the arguments that 1) having legal sales would give the community more control over alcohol than could be achieved over bootleggers and 2) legal sales would generate revenues to the city government. The major counterargument is that it would be self-destructive to have a store. It appears

that all the arguments are substantially correct, that is, that communities do acquire legal controls, generate revenues, and suffer painful increases in alcohol use and alcohol-related problems.

The reputation of most Alaska hub communities commonly includes some colorful judgement about the amount of drinking and public drunkenness that is regularly witnessed and the sense of danger that people, particularly visitors, older persons, women and children feel as a result. It must be noted that, for some of these hubs, this reputation has grown rapidly along with the rapid growth of hub populations, services, and visitation. No more than 10-15 years ago, many of these hubs were indistinguishable in their behavioral patterns from those of other villages in their subregions. Residents would enforce the general unacceptability of drinking behaviors by approaching a person who was chronically drunk and say, "Take care of your kids and your family. If you want to drink, make a time and place for it, not every day. Make some priorities in your life." The resident conveying this message was seen as a representative of the entire community and the person with the problem understood that compliance was being required.

With the rapid growth of hubs came a decline in the ability to exercise power over residents, due to increasing anonymity, economic independence, ethnic mix, and increasing differentiation in values and respect; in addition, as transportation systems improved, alcohol became far more readily available. One hub mayor concluded,

"Now people are complaining that we have a problem and we don't know how to deal with it. We don't know how to turn the clock back, to turn to our own culture for solutions, to keep from terminating ourselves through alcohol. So we turn to the outside to get community-oriented technical assistance and find out what our options are. But how do you take only the good from the other society?"

A. The Introduction of Retail Sales in the Hubs

There are very few Bush communities which have licensed alcohol retailers. It was suggested that, as a consequence, there is often more money available than there is alcohol to purchase. If the demand is greater than the supply, consumers will travel to acquire alcohol and will support the unlicensed sale and transport of alcohol. Perhaps the difference between the licensed and unlicensed distribution systems is primarily in the certainty of supply; that is, a regular supply is more conducive to ready access, sharing, and consistent levels of use and misuse while an intermittent or less certain supply is more conducive to private use, hoarding, and intermittent periods of problem behavior.

Retailers in hubs have a regionwide effect by improving access to alcohol through regular supplies and shortened transportation times. Other villages argue that, while these retailers may make positive contribution to hub revenues, there is little offsetting positive contribution made to the region. These villages see no improvement with the new retailing service; as one respondent noted, "Bootlegging was bad enough. Now we have the store and bootlegging, too." Other than the borough governments, there are no regionwide organizations to protest hub bootlegging on behalf of the villages. In addition, the size of hubs has grown so rapidly that hub populations constitute the majority population within the regions.

The placement of an alcohol retailer in an hub community does not signal the introduction of alcohol into the subregion served by the hub. In most instances, it merely means that the community serving as transportation hub has become more local; thus, the traffic pattern has changed more than the actual distribution system.

While a significant proportion of imported alcohol is provided to villages by direct mail order and charters from Anchorage and Fairbanks, the major regional source of alcohol appears to be the alcohol retailer located in the

hub; for this reason, the provision of retail alcohol sale in a hub will have an effect on the entire region, not merely the hub, as direct access to alcohol improves and relative cost declines. By reducing the transportation costs (through localizing the supply, through creating direct access by private vehicle) and regularizing the supply, alcohol has become more regularly and immediately available to villages surrounding the hub. The availability of alcohol as a substance is predicted on transportation/distribution systems and demand. Demand is limited only by the availability of cash compared to the price of alcohol. It is probable that the type of transportation/distribution system which supplies the demand is irrelevant to the consequent drinking patterns, as long as the legal retail system, the mail order/charter system, or the illegal bootleg system are reliable, timely, sufficient, and well-organized. Were hub communities to prohibit sale and importation of alcohol, it is likely that highly organized bootlegging would immediately move in to fill the continuing demand. While bootlegging is seldom a highly organized, high volume enterprise, its informality is not predictive of restricted access to alcohol or restricted individual use. Since all of these systems tend to operate on a "cash only" basis, the unavailability of money is a more critical factor.

Money availability lies at the core of changing alcohol use. In earlier years, homebrew was made for personal use and sharing with friends and relatives. Over time, homebrew began to be produced in larger volumes as the demand for alcohol increased, wages increased, and profits were able to be made. Profits led to various forms of bootlegging by aircraft, initially conducted by local residents, later by pilots. The prospect of profits eventually led to retail package stores and bars, regional supply systems, increasing convenience and access, increased volumes sold and consumed, decreased costs, and increased social and health problems, not only in hubs, but in the villages they served.