

978 HJ AK BAR ASSN SUNSET REVIEW FILE NO. 2 an 3

RECOMMENDATIONS

The Alaska Bar Association will:

- (a) Make an affirmative effort to work with the School District to provide a career program that uses lawyers as volunteers. For example, on Career Day, students interested in law could spend an entire day with an attorney. The ABA could also provide speakers at the education fair.
- (b) Identify the law schools that have been making an affirmative effort to attract minorities and bring these schools together with the minority candidates. For example, U. of N.M., U. of Denver, U. of Minn., U.C. at Davis.
- (c) Affirmatively work with Alaska Legal Services to promote interest in law as a career in rural areas.
- (d) Define the role of paraprofessionals.
- (e) Educate the members of the bar regarding the merits of paraprofessionals and work to secure an informal commitment that a certain number of paraprofessional slots will be created. For example, one paraprofessional per ten attorneys in each firm.
- (f) Explore with the University of Alaska, the idea of the University acting as a

collaborator with an Outside law school as a means of providing in-state legal training.

- (g) Validate the Alaska bar exam to ensure that it is not culturally biased.

III

BONEY MEMORIAL FUND

At present, the Fund consists of a time certificate of deposit worth \$5,905. The ABA Tax Committee, and particularly Joseph Vitone, are presently investigating the tax status of the fund. Our Committee has considered various means of increasing the fund. The Committee has rejected the idea of allocating the interest from the client security fund to the Boney Fund on the grounds that \$26,000 in the client security fund is inadequate in itself as a security fund; nor would the interest generated by that fund contribute substantially to building up the Boney Fund. The Committee noted, however, that lawyers and law firms are required to maintain non-interest bearing trust accounts for funds belonging to their clients. In many cases, the interest accruing to any one client is negligible and cannot be identified. Ultimately, the banks are the only ones who profit.

RECOMMENDATIONS

Increasing the Fund

- (a) Future statements of dues owed to the ABA will contain an optional add-on charge

of \$10 to be applied to the Boney Memorial Fund.

- (b) Local bar associations will be formally approached for contributions to the Boney Memorial Fund.
- (c) The Bar Association will investigate the feasibility of passing a rule, to be approved by the Alaska Supreme Court, which will permit the trust monies to be kept in interest-bearing accounts and the interest to be turned over to the Boney Memorial Fund.
- (d) The ABA will offer to provide matching funds out of the Boney Memorial Fund with the Native regional corporations who give grants or loans for the study of law.

Disbursing the Fund

- (a) Structure the Boney Memorial Fund to provide loans to Alaskan students for the study of law. The awards would be based on merit and there would be a partial or complete forgiveness of the loan if the recipient agreed to practice in rural areas for a fixed number of years.
- (b) Allocate a portion of the Boney Fund for use in the newly-created Anchorage School District tutorial program for blacks and Alaskan Natives.

(c) Compile a list of organizations presently giving money to minorities (e.g., BIA, CINA, Alaskan Native Brotherhood, for purposes of coordinating the loans made to minorities and maintaining an accurate count on the number of Alaskan ethnic minorities who are studying law.

(d) Additionally, or alternatively, use the Boney funds to provide loans to take the bar review course and the bar exam. This loan would be repaid.

Dated: March 23, 1979

By: Carolyn E. Jones, Chairperson
Chief Justice Jay Rabinowitz
Pat Anderson
Robert Erwin
John Hedland
Kon Kull

DELANEY, WILES, MOORE, HAYES & REITMAN, INC.

ATTORNEYS AT LAW

SUITE 400
1007 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE 279-3581
AREA CODE 907

STEPHEN M. ELLIS
CLAY A. YOUNG
KAREN L. HUNT
FRANK S. KOZIOL, JR.
RICHARD S. THWAITES, JR.
WILLIAM E. MOBELEY
VAUGHN S. ARMSTRONG

JAMES J. DELANEY
EUGENE F. WILES
DANIEL A. MOORE, JR.
GEORGE N. HAYES
STANLEY H. REITMAN
JOHN K. BRUBAKER
RAYMOND E. PLUMMER, JR.
DANIEL A. GERETY
ROBERT L. EASTAUGH

May 11, 1979

RECEIVED

MAY 15 1979

GARRETSON & JARVI
ATTORNEYS AT LAW

Ken Jarvi, President
Alaska Bar Association
1049 West Fifth Avenue, Suite 101
Anchorage, Alaska 99501

RE: Final Report of
Self-Risk Management Committee

Dear Mr. Jarvi:

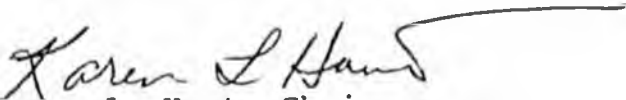
As required, attached hereto and incorporated herein as if fully set forth are the final reports of the Self-Risk Management Committee. This committee, formed as a result of Resolution 3 passed at the June, 1978 Annual Meeting of the Alaska Bar Association, has been comprised of Keith Brown, Charles Flynn, Roger Holmes, Karen Hunt, Ken Jarvi, Ronald Kull and Donna Willard. Each of these reports were published in the May, 1979 issue of the Alaska Bar Rag.

Also attached hereto and incorporated herein as if fully set forth is a copy of the membership survey which was mailed to the members during the week of May 7, 1979 and which results, tabulated, will be presented to the Annual Meeting in Sitka in June, 1979 and to the Board of Governors at their meeting preceding the Annual Business Meeting.

The recommendation of the committee is that the Alaska Bar Association sponsor INAX as the Bar-endorsed malpractice insurance carrier for attorneys practicing law in the State of Alaska.

It is the recommendation of the undersigned, as chairperson of the committee, that the Self-Risk Management Committee be disbanded because the work mandated by the membership in June, 1978 has been completed.

Respectfully submitted,


Karen L. Hunt, Chairperson
Self-Risk Management Committee

KLH/ps
Encl.

Year Long Study Fructified!

Risk Management Committee Makes Recommendations

Resolution #3 passed at the June, 1978 Annual Meeting required a study of malpractice self-insurance by the Alaska Bar Association. The inside pages of this issue of the *Bar Hug* presents the data and recommendations of the Self-Risk Management Committee which has studied the Norman self-insurance proposal and solicited proposals from the insurance market for the past year. The committee members Keith Brown, Charles Flynn, Roger Holmes, Karen Hunt, Ken Jarvi, Ronald Kull and Donna Willard have recommended one of the proposals to the membership. A survey to get membership response has been mailed to each member and the results will be presented at the Annual Business Meeting in Sitka on Saturday, June 9, 1979.

Special Committee

(continued from page 1)

Study was also made of the Professional Liability fund in Oregon and the Southern States Bar Conference group approach to purchasing package coverage from a carrier for 13 southern states and Hawaii.

Only four carriers expressed any interest in writing E & O in Alaska: American Home Group through National Union Fire, the present Bar-endorsed carrier; INAX a subsidiary of INA which purchased GATX in March, 1978; ICA a lawyer-owned Texas insurance company writing coverage in Texas and New Mexico; and the Shand Morahan group comprised of Evanston, Northbrook, and Mutual Fire & Marine and American Banker.

National Union Fire and INAX made specific proposals which are presented in this issue. Shand Morahan declined to make a proposal within the time schedule required by Resolution #3, but has indicated through its Alaska broker that it does plan to enter the Alaska market in the future.

Loss data for Alaska attorneys was made available to each of the interested carriers. The data was gathered not only from the questionnaire results from 88.4 percent private attorneys and 65.83 percent public practice attorneys, but also from present and past carriers in Alaska; defense attorney conferees with Norman; and the Insurance Division of the Alaska Department of Commerce.

The membership survey and committee recommendation will be considered by the Board of Governors at its meeting in Sitka June 5, 6 and 7, 1979.

The Norman Resolution

The Resolution resulted from a presentation by Peter Norman, Risk Consultant of Vancouver, BC to the Board of Governors in Hawaii in February, 1978. Norman was hired by the Board of Governors to do a feasibility study of Bar Association self-insurance in Spring, 1978. A claims loss questionnaire was responded to by the membership in May, 1978. Norman reported to the Board of Governors in June 1978 recommending that the Association institute a mandatory and exclusive self-insurance program with a \$2,500 individual deductible. The Association would handle all claims up to \$25,000 exposure. Coverage up to \$75,000 would be purchased from an insurance company making the limit of liability \$100,000 per insured member.

The Norman Proposal

Norman was subsequently rehired as a consultant to verify the loss data, make a coverage proposal to the committee and to solicit a private carrier willing to provide the second layer of coverage from \$25,000 to \$100,000. Although Norman has declined to identify the carrier, he has advised the Association that he has a commitment from it to write the second layer and to enter into a reinsurance agreement with the Bar Association self-insurance fund for a present price of \$220 per member. In addition, Norman has recommended that each insured member pay the Bar Association Liability Fund \$480 to cover all expenses and pay claims from \$2,500 to \$25,000 and to pay all claims expenses up to \$100,000 liability limit.

The committee, with Board of Governors approval, also contacted representatives of each of the only ten carriers presently writing E & O coverage for lawyers in the country.

(continued on page 2)

Committee Recommends INAX

Alaska Claims Follow National Trend

After a year of study of the current availability and cost of malpractice insurance in Alaska including the Norman proposal for Bar Association self insurance, the Self-Risk Management Committee comprised of Keith Brown, Charles Flynn, Roger Holmes, Karen Hunt, Ken Jarvi, Ron Kull and Donna Willard unanimously recommends that INAX be sponsored by the Bar Association as the Bar-endorsed malpractice carrier for Alaskan attorneys. Committee recommendation is based upon the following nine factors which the committee considered to be weighted in favor of the INAX proposal:

1. INAX covers paralegals, investigators, abstractors and law clerks at no additional charge to the policyholder, but they are not named insureds.
2. INAX coverage includes libel, slander and malicious prosecution claims.
3. Under the INAX policy, defense costs are paid in addition to coverage limits and are not deducted from liability limits.

4. INAX liability coverage is available in Alaska up to a 5 million dollar limit.

5. Under the INAX policy, if the policyholder does not agree to a settlement offer that is less than its policy limits, the company does not limit its liability to the amount for which the claim(s) could have been settled. It continues to defend. Additional defense costs will be paid by the company on a pro rata basis, but future settlement or judgment will be paid up to policy limits.

6. The INAX-furnished defense is not withdrawn should policy limits be exceeded but the company continues to defend and pays its pro rata share of expenses if liability limits are exceeded.

7. For the attorney who has been in practice with two or more years of prior acts exposure, the premium rate is less. The premium for zero or one year of prior acts exposure is greater under the INAX policy, but the committee weighted

Loss Control Program to be Considered

A mandatory feature of the Norman self-insurance proposal is a loss prevention program to attempt to prevent malpractice claims. The program is based upon the fact that the number, scope and cost of attorney malpractice suits in Alaska have doubled in the past five years. The resultant high damages paid have resulted in insurance carriers withdrawing or limiting their coverages; lawyers paying higher premiums or going bare; and the Bar Association attempting to find solutions to the underlying causes.

In order to effectuate a self-insurance program which can aid in loss prevention, the Self-Risk Management Committee recommends the following:

1. Mandatory reporting of all claims to the Bar Association office in order that the type of claims being alleged can be known for use in planning CLE seminars.

2. Because the majority of claims are made regarding errors or omissions in law office management, a rule change be proposed to the Supreme Court requiring each active practitioner to attend six hours of law office management CLE in a three year period. A bylaw change should be passed by the Board of Governors mandating that the Association present six hours of such CLE every year rotating the program between districts two and four, district three and district one.

3. The Board of Governors elect

[continued on page 12]

the cost break given to the more experienced attorney as affecting more members of the Association. Thus, the premium structure of the INAX policy was considered more favorable to most of the members.

8. INAX has recognized the value of and need for a loss prevention program in those areas where most claims arise. Thus it has developed and provided, at no cost to the Association or to the policyholder, an in-house loss prevention program which includes two annual CLE seminars with expert speakers, films, video and brochures.

9. INAX will select an in-state adjuster to develop knowledge and expertise in handling attorney malpractice claims.

The committee recommends INAX realizing that INAX did not have as favorable provisions as National Union Fire in three areas. INAX does require that the policyholder deductible be paid for each occurrence which results in claims made in one policy period. National Union Fire requires only one deductible per policy period regardless of the number of occurrences which gives rise to claims. Loss data indicates very few attorneys have more than one occurrence per policy period that results in malpractice

Loss Prevention Program Proposed

A mandatory feature of the Norman self-insurance proposal is a loss control program to attempt to control the scope and severity of malpractice claims once an act or omission has occurred but which act or omission may potentially be controlled to lessen or eliminate the damage to the client.

In order to effectuate a self-insurance program which can aid in loss control once an attorney is aware of a potential malpractice problem, the Self-Risk Management Committee recommends the following:

1. Because many malpractice claims may be capable of repair before reaching the lawsuit stage, the Board of Governors should propose a rule to the Supreme Court requiring attorneys to report possible claims to the Association as soon as the lawyer reasonably foresees a potential claim.

2. The Board of Governors should create a standing claims repair committee to which three lawyers are appointed to serve staggered terms of three years each. The committee should function as follows:

- A. The lawyer gives notice of a potential claim to the insurer and to the committee which within five days selects a Repair Expert who has at least five years of experience in the area of potential claim. Said expert's fees to be paid as defense costs from the Association Self-insurance funds. Client disclosure must also be made.

- B. Within 20 days after his appointment, the Repair Expert takes whatever action, if any, is possible to repair the error or omission. Disclosure of all such activities must be made to the client.

- C. Neither members of the Repair Committee, the Repair Expert nor any member of their firms can represent any party if repair is not accomplished and a lawsuit results.

- D. The Bar Association indemnifies members of the Repair Committee and the Repair Expert should they be sued in any resultant lawsuit.

3. The Conciliation Panel procedures of new Bar Rule 16 should be developed to encourage disoriented clients who have neither a fee dispute nor an ethical complaint to utilize the procedures to achieve resolutions of their complaints.

claims.

INAX does not have as favorable an extended reporting endorsement or tail available in that it only provides an unlimited tail for 225 percent of the last annual premium due 30 days after termination of the policy. National Union Fire provides the same unlimited tail at the same premium rate, but also provides an optional three year and six year tail at reduced charges. The National Union tail premium can also be paid in installments.

Finally INAX does not provide discounts for CLE as does National Union Fire. However, the committee determined that the CLE discount offered may be of limited value to many of the members because it requires the individual attorney to first pay at least a \$1,000 annual premium before the discount is applicable.

The committee evaluation of the Norman self-insurance proposal is reported elsewhere in this issue of the Bar Rag.

Self Insurance Is Not Recommended

Peter Norman, Risk Management Consultant hired by the Board of Governors, has made the following proposal to the Association recommending that it initiate a self-insurance malpractice program for Alaska attorneys. Norman's proposal requires mandatory participation by each attorney engaged in any form of private practice in the State of Alaska. Each attorney would be required to pay a flat fee per year of \$480 to a group fund managed by the Bar Association or lose the license to practice law.

The fund would pay costs, defense fees and damages for malpractice claims between the limits of \$2,501 and \$25,000. The fund would also pay defense costs on all claims up to \$100,000. The individual attorney would pay the first \$2,500. For an additional \$220, each attorney would be covered up to \$100,000 liability limit with coverage obtained by the Bar Association from an insurance carrier. The carrier would also provide stop-gap coverage in the event that fund monies were exhausted during the policy year.

Attorneys that wanted more than \$100,000 limits would need to secure the additional coverage from an insurance carrier. Prior acts would be covered up to the \$100,000 limit. Upon retirement or appointment to the Bench, an attorney could purchase "tail" coverage for \$100 per year for claims presented in the future for some act or omission during the policy period.

Participation Required

All attorneys licensed to practice law in Alaska would be required to participate in the program except government employed attorneys; corporation employed lawyers (this does not exempt professional corporations); public aid attorneys; and admitted attorneys not engaged in the private practice of law in Alaska. Exempted attorneys would be required to participate in the fund if they did any pro bono, family or friends' legal work, however.

The Bar Association would administer the fund, issue policies, bill for premiums, and investigate, adjust and otherwise handle the claims. The Association would also be responsible for either complying with the Alaska Insurance Code requirements or getting legislative exemption, in part or in whole, for its insurance program. If legislative exemption resulted in the insurance industry antitrust exemptions being non-applicable, the Association would also be responsible for complying with the state and federal anti-

E & O claims against Alaska lawyers have followed three national trends. (1) The number of claims has drastically increased. (2) Majority of claims are based upon acts or omissions in meeting filing dates; ignoring statutes of limitations; or delayed advice to clients causing most of them. These claims are frequently classified as law office management problems. (3) Finally, damages paid in settlement or judgments have skyrocketed.

The major E & O carrier in Alaska for 1970-1975 was Mission Insurance Company. During that period Mission collected \$152,637 and paid out \$187,750 in claims and \$26,623 in defense expenses for a loss ratio of 140 percent.

In 1974 six claims were made. The figures for 1975 when National Union Fire became the Bar-endorsed carrier reveal that eight claims were made. In 1976 eight claims were made. The number of claims made in 1977 and 1978 jumped to 12 each year. Through March, three claims have been reported to the Bar-endorsed carrier for 1978.

No E & O lawsuit against attorneys has been tried to date. Settlements range from dismissed for no dollars to over a quarter of a million dollars. Defense costs have ranged from less than 10 percent of the settlement figure to as high as 50 percent of the settlement paid. The majority of closed cases incurred defense costs of approximately 25 percent of the settlement amount.

For the years 1974 through 1978 at least nine claims were made alleging missed statute of limitations or other filing dates. A possible additional 13 claims may have alleged similar negligence. Research has revealed 44 known claims in the past five years. Additional claims may not be known because they were not listed on the questionnaires or not discovered because the coverage was placed through out-of-state brokers and written by international carriers not admitted to write in the State of Alaska.

DISCLAIMER

The information contained within the Bar Rag regarding coverage terms and premium costs is information furnished to the Self-Risk Management Committee by the named brokers and/or insurance carriers and/or Peter Norman. Each broker and carrier was given an opportunity to review information and to advise of errors or misrepresentations. The Bar Association, Board of Governors and committee members disclaim any and all responsibility for the accuracy of the information presented. The reader relies upon the information to his/her detriment at his/her own risk.

trust laws. The tax exemption issues would also be the responsibility of the Association.

Norman's proposal also mandates aggressive loss prevention/loss control programs to be administered by the Bar Association. See articles elsewhere in this issue of the Bar Rag for an explanation of these two programs.

Norman suggests that there are several advantages to the members if the Board of Governors adopts his proposal. The primary advantage is Bar Association control over attorney malpractice problems in Alaska. Through the mandatory loss prevention and loss control programs, both the extent of and type of claims would be under the continuous scrutiny and management of the Association.

Coverage Always Available

A second advantage proposed by Norman is that minimum coverage of \$25,000 would always be available to each privately practicing attorney

[continued on page 12]

Self Insurance Not Recommended

(continued from page 7)

in Alaska thereby eliminating the risk that any attorney would need to be without malpractice insurance either because the cost was too great or carriers refused to write coverage in Alaska for that attorney.

Finally, Norman points to an annual premium of \$700 per year per attorney for \$100,000 coverage as a lower cost policy than what is available from the insurance carriers willing to write \$100,000 levels of coverage in Alaska for attorneys.

After spending a year studying the current malpractice insurance market and the Norman self-insurance proposal, the Self-Risk Management Committee is unanimous in not recommending that the Alaska Bar Association self insure its members for malpractice claims. The committee, comprised of Keith Brown, Charles Flynn, Roger Holmes, Karen Hunt, Ken Jarvi, Ron Kull and Donna Willard, found the following factors weighed against recommendation that the Bar adopt the Norman self-insurance program.

The program would have to be mandatory and exclusive malpractice coverage which would require that every member of the Bar Association who did any private practice for friends, family, etc. would have to

pay a premium and participate in the Fund.

The program would require the Bar Association to purchase a group deductible policy of \$25,000 per member from an insurance carrier. Oregon, with a membership of over 5,000 lawyers, has been unable to purchase such coverage although it has a group deductible of \$100,000.

Although the Association Fund would operate on the one hand as a group deductible in relationship to an insurance carrier, on the other hand the Bar Association would become an insurance carrier itself for the first \$25,000 of coverage thereby requiring it to either meet the minimum one million dollar capitalization requirement of the Insurance Code or to get statutory exemption from the Legislature.

Statutory Exemption

If statutory exemption were granted to the Bar Association by the Legislature, depending upon the scope of the exemption, the Fund could be subject to antitrust considerations. Because insurance companies are regulated by the insurance codes, they are exempt from antitrust legislation. If it is exempted from insurance code regulations, the Association becomes exposed to antitrust determinations particularly because to be economically feasible, the Fund must be mandatory and exclusive malpractice coverage for Alaska lawyers.

Also, if exempted from the code, individual attorneys lose the scope of Insurance Code protections developed for policyholders or regular insurance companies.

In order to avoid depleting the Fund in a single year when high damage claims are paid, re-insurance of the Fund must be obtained from the insurance market. Oregon has been unable to secure such coverage to date although it has over 5,000 attorneys participating at \$500 per attorney per year.

If re-insurance of the Fund cannot be obtained, the individual attorneys in Alaska in the private practice of law become subject to an additional assessment above the normal premium charge to cover the amounts necessary to pay the defense costs and damages incurred in one year. The defense costs for all claims up to the \$100,000 limit must be paid

by the Fund although it is liable only for the first \$25,000 in damages.

Costs to Association

Self-insurance requires the Bar Association to go into the insurance business which means incurring all of the policy writing, publishing and billing costs which would require the Association administration and Board of Governors to become experts in the insurance business.

Because the Fund would earn interest on the premium collected, tax liabilities will also be incurred by the Association. Bookkeeping, auditing and tax reporting costs would also have to be met from the premium charged. For merely \$25,000 of Fund provided coverage, these costs are uneconomical.

The premium for a \$2,500 individual deductible on every claim, \$22,500 Fund liability and \$75,000 carrier liability program is proposed at \$700 per lawyer. The sum of \$220 is the projected figure per member for the level of insurance from \$25,000 to \$100,000 with \$480 remaining in the Association Fund to pay all administrative costs, defense costs up to the \$100,000 limit and claims damages up to \$25,000 (minus the individual \$2,500 deductible). The cost is uneconomical when compared with the same limits and deductible from National Union Fire (\$720) or INAX (\$560) for attorneys with five or more years of experience. With less experience, the carriers' premiums are less.

The projected revenues collected for the fund for one year are \$399,000, calculated as follows.

750 private practice attorneys pay	\$480	\$336,000
100 part-time attorneys pay	\$480	= 48,000
150 judges and/or retired attorneys (not practicing law anywhere) pay	\$100	= 15,000
		\$399,000

The cost projections by Norman are as follows:

(a) Broker's fee for securing coverage from \$25,000 to \$100,000	\$25,000
(b) Norman's consulting fee (payable for two years)	25,000
(c) Administration cost for part-time secretary	8,000

(d) Accounting and office expenses	8,000
(e) Estimated adjusting and defense costs per year	100,000
(f) Maximum of six claims paid per year	136,200
	<u>\$302,200</u>

The committee considers these costs projections to be unrealistic because Norman is suggesting that actually to run the program, a part-time secretary paid \$8,000 a year, can be an expert able to run an insurance company and be a claims handler for active files.

Defense Costs Not Included

Secondly, the defense cost allocation permits only approximately \$17,000 per file for legal defense fees at \$75 per hour for six active claims per year. No defense costs are included in this breakdown. Last year, one claim settlement plus the defense costs and fees would have required more monies than the amount allotted for all claims and all defense costs for the entire year. Likewise, given that the known number of claims for the past two years have been double the projected number, the committee thinks that the estimate of only six claims per year is unrealistic.

The considerations discussed above were the major reasons for committee rejection of the Norman self-insurance proposal. The final determination of the committee is to recommend that INAX be the Bar-sponsored malpractice carrier for attorneys in Alaska.

The premium charge for equal coverage is less expensive than the self insurance proposal and offers coverage options up to five million liability limits. Therefore, based upon availability of coverage and cost considerations, self-insurance was not, in the committee's opinion, economically necessary or feasible at this time.

Loss Control Program

(continued from page 7)

a bylaw change requiring the Association to present CLE seminars in every area of substantive law where two or more claims have been made. The Board of Governors should also strongly consider a proposal to the Supreme Court requiring attorneys who have a claim made against them to attend CLE in areas of substantive law where E & O is alleged.

4. The Board of Governors enact a bylaw change mandating the Association to present, as a part of the annual meeting, an annual update on current developments in the substantive areas of law.

E & O Insurance Programs Compared

AREA COVERED	PRESENT BAR-ENDORSED AMERICAN HOME (NATIONAL UNION FIRE)	INAX	NORMAN
INSURED	<p>Sole proprietors, partners of a partnership, stockholders or members of professional corporations or professional associations.</p> <p>Any lawyer who is an employee of the named insured.</p> <p>Any lawyer who was previously a named insured (other than sole proprietor) who terminated his relationship with the firm, but only for professional services rendered prior to termination. Changes in firm must be reported to company within 30 days. For additional charge, paralegals, law clerks, abstractors and investigators may be covered.</p>	<p>The named insured and predecessor firms; any partner, officer, director, stockholder, or employed lawyer of the named insured or lawyer who, during policy period becomes such: any former partner, officer, director, stockholder, or employed lawyer acting in his professional capacity on behalf of the named insured; the heirs, executors, administrators, and legal representatives of each insured in the event of death, incapacity, or bankruptcy. The lawyer is covered for acts or omissions of his non-attorney staff without additional charge; however, they are not "additional insureds."</p>	<p>Mandatory participation required as a condition to maintain an active license to practice law in Alaska except for the following:</p> <ol style="list-style-type: none"> 1) Attorneys elected or employed exclusively on a full-time basis by a governmental entity. 2) Attorneys employed exclusively on a full-time basis by a public or private corporation, association or other business entity except for a professional corporation whose business is the practice of law. 3) Attorneys employed by legal aid services corporations who are eligible for professional liability insurance through the National Legal Aid and Defenders Association. 4) Attorneys not engaged either full-time or part-time in the private practice of law in Alaska.
COVERAGE	<p>Covers claims arising out of acts or omissions of the insured and any other person for whom the insured is legally responsible for professional services rendered, or which should have been rendered in the insured's capacity as a lawyer.</p> <p>When the insured acts as a fiduciary, such services shall be deemed professional legal services but only to the extent that the insured would have been legally responsible in the usual attorney-client relationship as attorney for a fiduciary, except for any loss sustained by the insured as the beneficiary or distributee of any trust or estate. Libel, slander and malicious prosecution are excluded.</p>	<p>Claims first made against the defined insured for any act or omission in professional services rendered or which should have been rendered in the insured's capacity as a lawyer or Notary Public.</p> <p>When the insured acts in a fiduciary capacity, such services shall be deemed professional services but only to the extent that the insured would be legally responsible in the usual attorney/client relationship as attorney for a fiduciary except for any loss sustained by the insured as the beneficiary or distributee of any trust or estate. Claims for libel, slander and malicious prosecution (personal injury) arising out of the conduct of professional services of the insured as a lawyer or Notary Public.</p>	<p>Claims arising from any act or omission of the defined insured arising out of the performance or failure to perform professional services for others, in the insured's capacity as an attorney except that, the insured when acting in a fiduciary capacity, shall be covered only for acts or omissions in the usual attorney/client relationship. Unknown as to whether libel, slander and/or malicious prosecution are covered.</p>
DEFENSE, SETTLEMENT AND SUPPLEMENTARY PAYMENTS	<p>The company shall defend.</p> <p>Written consent of the insured before settlement. If the insured refuses to settle as recommended by the company and elects to contest the claim, company's liability shall not exceed the amount for which the company would have been liable at that time.</p> <p>Company shall not be obligated to pay any claim, claims expense, or continue defense after limits of liability have been exhausted.</p> <p>Claims expense included within limits of liability, and if limits are exhausted the company shall have the right to withdraw, tendering control of defense to the insured.</p>	<p>The company shall defend even if suit is groundless, false, or fraudulent; make such investigation and negotiation as it deems expedient; but written consent of the insured is required before the company can settle a claim. If consent is refused, applicable policy limits are still available.</p> <p>Defense costs are payable in addition to the limit of liability, however, in the event of payment of a claim in excess of the limit, the company shall pay such proportion of claim expenses as the amount of the limit of liability bears to the total amount paid to dispose of the claim.</p>	<p>The Bar Association shall defend even if allegations are groundless, false or fraudulent; but the Bar Association may make such investigation and, with the consent of the insured, such settlement of any claim or suit as it deems expedient; if the insured and Bar Association fail to agree on whether settlement shall be made then such issue shall be decided by an arbitrator being a member of the Alaska Bar Association appointed by the Chief Justice of the Supreme Court of Alaska whose decision shall be binding. Total defense costs are deducted from first \$25,000 layer including costs incurred for damages payable from \$75,000 layer.</p>
CLAIMS MADE FORM	<p>Applies to acts or omissions if claim is first made during the policy period or extended reporting period. Claim is first made if:</p> <ol style="list-style-type: none"> a) during the policy period or extended reporting period insured knows or becomes aware of a possible claim and gives written notice to the company; b) if payable claim is made, any additional claims brought subsequently to that policy year resulting from the same or related acts shall be considered part of the claim first made during the policy year. <p>A claim is considered first made when company first receives notice.</p>	<p>Applies to acts or omissions if claim is first made during the policy period or extended reporting period. Claim is first made if:</p> <ol style="list-style-type: none"> a) during the policy period or extended reporting period insured knows or becomes aware of a possible claim and gives written notice to the company; b) if payable claim is made, any additional claims brought subsequently to that policy year resulting from the same or related acts shall be considered part of the claim first made during the policy year. <p>A claim is considered first made when company first receives notice.</p>	<p>Applies to claims first made during policy period if insured first knows or becomes aware of claim or possible claims and gives written notice to the Bar Association during such period.</p>
PRIOR ACTS	<p>Prior acts included if the insured did not know nor could have foreseen a possible claim before effective date of policy.</p> <p>If other valid and collectible insurance exists, this policy shall apply as excess with claims expense included in the limits of liability.</p>	<p>Prior acts covered if the insured had no knowledge, nor could have reasonably foreseen a possible claim before the beginning date of the policy when there is no other valid and collectible insurance applicable to the claim. If other valid and collectible insurance exists, this policy shall apply as excess.</p>	<p>Unlimited coverage if insured did not know and could not reasonably have foreseen claim prior to policy period and if no other insurance is applicable.</p>
POLICY PERIOD	<p>The period of time between the inception date and effective date of termination, expiration or cancellation of coverage, specifically excluding any extended reporting period.</p>	<p>The period from the effective date of the policy to the expiration date or earlier termination date, if any. Policies are issued for one year.</p>	<p>From the time when coverage has been effected through the Alaska Bar Association and for which a premium has been paid, until either the expiration date or until cancellation of coverage, whichever first occurs.</p>
TERRITORY	<p>Worldwide providing claim is made or suit is brought within the United States or Canada.</p>	<p>Worldwide.</p>	<p>Worldwide providing claim is made or suit is brought within the United States.</p>

EXTENDED REPORTING ENDORSEMENT (TAIL)

In cases of cancellation or non-renewal by either the insured or the company, the insured may purchase an endorsement providing an unlimited extended reporting period for claims which occurred prior to the termination of the policy period but which are first made in the extended reporting period. The insured shall pay a premium equal to 225% of the last annual premium. A three year limited tail is available at 100% last annual premium. A six year limited tail is available at 150% last annual premium. Premiums may be paid in installment.

Unlimited extended reporting endorsement is available to the insured for 225% of the last annual premium in the event of cancellation or nonrenewal by the company of the insured. Covers claims which arise during the policy period but are reported during the extended reporting period. Payment of the additional premium is due within 30 days of the termination.

For an annual charge of \$100 unlimited tail is available. Because coverage is mandatory for all active members of the Bar Association in full or part-time private practice, tail is available only to members who cease practicing law or change to judicial status.

LIMITS OF LIABILITY

Claims expenses are included within the limits of liability. All claims expenses shall first be subtracted from the limits of liability with the remainder being the amount available to pay money damages. The first limit is applicable to all claims and expenses arising out of the same or related professional services without regard to the number of claims. The aggregate limit is available for all claims made in a policy period. Deductible applies only once during policy period regardless of number of claims during same period.

Claims expenses are not deducted from limits of liability. The "aggregate" amount is limit for all claims made during each policy year or last policy year plus extended reporting endorsement if purchased regardless number of lawyers in firm. Deductible is subtracted from total amount of damages and claims expenses paid and company is liable only for difference. Deductible is applicable to each claim made during policy period regardless of number of claims made during same period.

\$100,000 per occurrence includes \$2,500 deductible and the \$75,000 liability limit obtained by Bar Association from private insurance carrier for all damages arising out of all acts or omissions in connection with the same professional services regardless of the number of claims or claimants, and regardless of the number of certificates that have been issued to the partnership or corporation, its members or employees against who claim or claims are being made. Deductible is paid per claim.

CLAIMS EXPENSE

Fees charged by attorney(s) designated by the company. All other fees, costs, and expenses resulting from the investigation, adjustment, defense and appeal of claim if incurred by the company or by the insured with written consent of the company. Does not include salary charges of regular employees or officials of the company. Deductible applies to these expenses.

Legal expenses arising from the defense of any claim, including attorney's fees, arbitrator's fees, court costs, expert's fees, and costs incurred in connection with the attendance of witnesses at a trial or arbitration proceedings. The deductible applies to these expenses.

All adjusting costs and fees, defense costs and fees are borne by the self-insurance fund of the Bar Association.

The cost of investigation and adjustment of claims by salaried employees of the company (including attorneys) and fee adjusters shall be borne by the company.

EXCLUSIONS

1. Criminal or malicious acts.
2. Deliberate, dishonest or fraudulent acts.
3. Employer's claim against salaried employee.
4. Bodily injury or property damage.
5. Insured's activities as officer, director of any employee trust, charitable organization, corporation, company or business other than that of the named insured.
6. Punitive or exemplary damages.
7. Claim arising out of any other business enterprise owned, controlled or managed by the insured, including property.
8. Prior acts if the insured knew or could have reasonably foreseen a possible claim before effective date of policy.
9. Standard Nuclear Energy Liability Exclusion.
10. Libel, slander and malicious prosecution.

1. Criminal, or malicious acts.
2. Deliberate, dishonest or fraudulent acts.
3. Claims arising out of any other business enterprise owned, controlled or managed by the insured including property.
4. Insured's activities solely as a partner, officer, director, or stockholder of any firm or corporation not named in the declarations.
5. Bodily injury, sickness, disease, death or property damage.
6. Insured's activities as a public official or as an employee of a governmental body, subdivision, or agency thereof.
7. Standard Nuclear Energy Liability exclusion.
8. To discrimination by the insured on the basis of race, creed, age, or sex.
9. Lawyers who practice patent/copyright law for over 51% of total practice.
10. Lawyers who practice entertainment law for over 16% of total practice.
11. Lawyers who practice title/abstracting law for over 76% of total practice.
12. Punitive damages are not specifically excluded, but all intentional acts are excluded which may lead to coverage questions.

- 1) Any dishonest, fraudulent, criminal or malicious act or omission of any insured.
- 2) To any claim made by an employer against an insured who is a salaried employee of such employer.
- 3) Bodily injury to, or sickness, disease or death of any person, or to injury to or destruction of any tangible property, including the loss of use thereof; unless arising out of the performance of professional services, which is covered hereunder.
- 4) Acts or omissions committed prior to the policy period if the insured on the effective date of this policy had knowledge that such acts or omissions might be expected to be the basis of a claim or suit.
- 5) Conduct of any business enterprise owned by the insured or in which the insured is a partner, or which is controlled, operated or managed by the insured, either individually or in a fiduciary capacity, including the ownership, maintenance or use of any property in connection therewith.
- 6) Any punitive or exemplary damages.

WAIVER OF EXCLUSION AND BREACH OF CONDITIONS

Coverage is provided for the "innocent partner." If a dishonest, fraudulent, malicious or criminal act is committed without the personal knowledge or personal acquiescence of other named insureds or personal passivity after acquiring such knowledge.

Coverage is also provided to the "innocent partner" relating to the giving of notice to the company with respect to which any other insured is in default.

After receiving knowledge, the insured will comply with such condition promptly.

Coverage is provided for the "innocent partner." If a dishonest, fraudulent, malicious or criminal act is committed without the personal knowledge or personal acquiescence of other named insureds or personal passivity after acquiring such knowledge.

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Coverage is also provided to the "innocent partner" relating to the giving of notice to the company with respect to which any other insured is in default.

After receiving knowledge, the insured will comply with such condition promptly.

OTHER INSURANCE

If the insured has other applicable insurance, the company shall respond pro rata. With respect to prior acts coverage, the insurance will only apply as excess over any other valid and collectible insurance and shall then apply only in the amount by which the applicable limits of this policy exceeds the sum of applicable limits of all other insurance. If this policy is treated as excess, any claims expense allowed shall be included in the limit of liability.

With respect to prior acts coverage, the insurance will only apply as excess over any other valid and collectible insurance and shall then apply only in the amount by which the applicable limits of this policy exceeds the sum of applicable limits of all other insurance.

If the insured has other insurance against a loss covered by this policy, except insurance specifically arranged to apply as excess over the insurance provided by this policy, the insurance hereunder shall apply only as excess insurance over any other valid and collectible insurance and shall not be called upon in contribution.

CONFORMANCE TO STATE STATUTES

No such provision.

Terms of this policy which are in conflict with the statutes of the State wherein this policy is issued are hereby amended to conform to such statutes.

Terms of this policy in conflict with Alaska Statutes are hereby amended to conform to such statutes.

MAXIMUM LIMITS AVAILABLE

\$1,000,000/\$1,000,000

\$5,000,000/\$5,000,000

\$100,000/\$100,000

[continued on page 10]

NOTICE OF CLAIM OR SUIT

As soon as the insured becomes aware of any act or omission which would reasonably be expected to be the basis of a claim or suit covered by the policy, written notice shall be given to the company as soon as practicable together with the fullest information obtainable.

If claim is made or suit is brought, all documents shall immediately be forwarded to the company.

If during the policy period or the extended reporting period, the company receives written notice of any act or omission which could be expected to give rise to a claim, any claim which subsequently arises shall be considered to be a claim reported during the policy year when written notice was received.

During the policy period or the extended discovery period, the company shall be given written notice of any act, error or omission which could reasonably be expected to give rise to a claim against the insured under this policy. Any claim which subsequently arises out of such act, error or omission shall be considered to be a claim reported during the policy year or extended discovery period in which the written notice was received.

Upon the insured or the named insured becoming aware of any act or omission which might reasonably be expected to be the basis of a claim or suit covered herein, written notice shall be given by or on behalf of the insured to the Bar Association as soon as practicable. If claim is made or suit is brought against the insured, the insured shall immediately forward to the Bar Association every demand, notice, summons or other process received by him or his representative.

ASSISTANCE AND CO-OPERATION OF THE INSURED

The insured shall cooperate with the company and upon request, assist in making settlements, in the conduct of suits, and in enforcing any right of contribution or indemnity against any person or organization other than an employee of any insured who may be liable to the insured.

The insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense.

The insured shall cooperate with the company and upon request, assist in making settlements, in the conduct of suits, and in enforcing any right of contribution or indemnity against any person or organization other than an employee of any insured who may be liable to the insured.

The insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense.

The insured shall cooperate with the Bar Association and, upon the Association's request assist in making settlements, in the conduct of suits, and in enforcing any right of contribution or indemnity against any person or organization other than an employee or any insurer who may be liable to the insured because of acts or omissions with respect to whom insurance is afforded under this policy, and the insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expenses.

SUBROGATIONS

The company shall be subrogated to all the insured's rights of recovery against any person or organization other than an employee of an insured.

The insured shall assist however necessary to secure such rights and do nothing after the loss to prejudice them.

The company shall be subrogated to all the insured's rights of recovery against any person or organization other than an employee of an insured.

The insured shall assist however necessary to secure such rights and do nothing after the loss to prejudice them.

In the event of any payment under this policy, the Bar Association shall be subrogated to all insured's rights of recovery therefore against any person or organization other than (i) an employee of any insured, (ii) an employee or member of any insured partnership, (iii) any corporation or an employee or member of any corporation owned by the insured but only with respect to services in connection with the practice of law, and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

ASSIGNMENT

The interest hereunder of any insured is not assignable. If the insured shall die or be adjudged incompetent, this policy shall cover the insured's legal representative.

The interest of the insured shall not be assignable. In the event of the death or incompetency of the insured, this policy shall cover the insured's legal representative as an insured as respects any liability previously incurred and covered by this policy.

The interest hereunder of any insured is not assignable. If the insured shall die, be adjudged incapable of managing his affairs or become bankrupt or insolvent, this policy shall cover the insured's legal representative as an insured with respect to acts or omissions covered by this policy. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the insurer of any of its obligations hereunder.

CANCELLATION

The insured may cancel by surrendering the policy or by giving written notice stating when cancellation should be effective. Return premium shall be computed short rate.

The company must give 30 day written notice of cancellation.

Return premium shall be computed pro rata.

The insured may cancel by surrendering the policy or by giving written notice stating when cancellation should be effective. Return premium shall be computed short rate.

The company must give 30 day written notice of cancellation.

Return premium shall be computed pro rata.

First \$25,000 level of insurance through the Bar Association is mandatory and exclusive. Cancellation by individual member and/or Bar Association not permitted. Second level of insurance covering claims in excess of \$25,000 up to \$100,000 limit will be subject to cancellation by carrier and/or Bar Association as per terms of the agreement entered into.

CLE DISCOUNTS

5% if premium in excess of \$1,000 or individual participates in Bar Approved CLE. 10% if premium in excess of \$1,000 and individual participates in Bar Approved CLE. 15% if premium in excess of \$5,000 and 50% or more of firm members participate in Bar Approved CLE.

None.

None.

LOSS PREVENTION PROGRAM

None.

In-house loss prevention program which provides at least two law office management seminars per year at company expense. Program includes expert speakers, video and brochures. Mandatory participation by Association; does not require attendance by policy holders however.

Mandatory loss prevention and loss control programs both as explained elsewhere in Bar Rag this issue.

RULE OF ATTORNEY FEES

Covered by policy. No endorsement necessary.

Covered by policy. No endorsement necessary.

Unknown.

BROKER

Clary Insurance Agency.

Dougan, Eader, Reynolds, and Wheller

None selected to date.

E & O Insurance Premium Information

AMERICAN HOME PRESENT PREMIUMS

Deductible	Limit	No Prior Exposure	1 Year Prior Exposure	2 Years Prior Exposure	3 Years Prior Exposure	4 Years Prior Exposure	5 years or more Prior Exposure
- 0 -	100,000/	400	540	630	720	810	900
1,000	300,000	320	432	504	576	648	720
2,500		300	370	441	504	567	630
10,000		260	351	410	468	527	585
25,000		200	270	315	360	405	450
50,000		160	216	252	288	324	360
100,000		80	108	126	144	162	180
- 0 -	200,000/	500	675	780	900	1013	1125
1,000	600,000	420	567	667	756	851	945
2,500		400	540	630	720	810	900
5,000		380	513	599	684	770	855
10,000		360	486	567	648	729	810
25,000		300	405	473	540	608	675
50,000		260	351	410	468	527	585
100,000		180	243	284	324	365	405
- 0 -	500,000/	600	810	945	1080	1215	1350
1,000	500,000	520	702	819	936	1053	1170
2,500		500	675	780	900	1013	1125
5,000		480	648	756	864	972	1080
10,000		460	621	725	828	932	1035
25,000		400	540	630	720	810	900
50,000		360	486	567	648	729	810
100,000		280	378	441	504	567	630
- 0 -	1 million/	700	945	1103	1260	1418	1575
1,000	1 million	620	837	975	1116	1256	1395
2,500		600	810	945	1080	1215	1350
5,000		580	783	914	1044	1175	1305
10,000		560	756	882	1008	1134	1260
25,000		500	675	780	900	1013	1125
50,000		460	621	725	828	932	1035
100,000		380	513	599	684	770	855

- 1) No surcharges applied to any type practice.
- 2) CLE deduction: Deduct 5% if premium over \$1000 or individual participates in CLE
Deduct 10% if premium over \$1000 and individual participates in CLE
Deduct 15% if premium over \$5000 and at least 50% of firm participates in CLE.
- 3) To cover paralegals, law clerks, abstractors and investigators, add 50% of lawyers' average annual rate to total firm rate. (e.g. in a ten person firm, take average years of experience of lawyers, find premium rate applicable to that experience and add 50% of that charge to total firm premium.)
- 4) Broker has binding authority unless applicant has had three or more claims in five years of practice.
- 5) Company requires that coverage under one policy be purchased for all attorneys who share space, staff and/or otherwise give appearances of an existing partnership.

INAX PROPOSED PREMIUMS **

Deductible *	Limit	No Prior Exposure	1 Year Prior Exposure	2 Years Prior Acta Exposure	3 Years Prior Exposure	4 Years Prior Exposure	5 Years or More Prior Exposure
\$1000 (Minimum)	100,000/ 100,000	400 (base)	440	480	520	560	600
	250,000/ 250,000	560	600	640	680	720	760
	500,000/ 500,000	640	680	720	760	800	840
	1,000,000/ 1,000,000	720	760	800	840	880	920
	2,000,000/ 2,000,000	1000	1040	1080	1120	1160	1200
	3,000,000/ 3,000,000	1180	1220	1260	1300	1340	1380
	4,000,000/ 4,000,000	1332	1372	1412	1452	1492	1532
	5,000,000/ 5,000,000	1440	1480	1520	1560	1600	1640

* For \$2500 deductible subtract \$40 from the rate applicable to the number of years in practice and the limits wanted. For \$5000 deductible subtract \$60 from the rate applicable to the number of years in practice and the limits wanted. For \$10000 deductible subtract \$80 from the rate applicable to the number of years in practice and the limits wanted. For \$25000 and higher, application must be submitted to underwriters for rate determination.

- ** Surcharges on some types of practice
1. BI-Plaintiff: If 50 to 75% of total practice add \$60 to applicable rate.
 2. BI-Plaintiff: If 76 to 100% of total practice add \$100 to applicable rate.
 3. Patent/Copywrite: If 25 to 50% of total practice add \$100 to applicable rate (if more, coverage unavailable).
 4. Real Estate: If 50 to 75% of total practice add \$60 to applicable rate.
 5. Real Estate: If 76 to 100% of total practice add \$100 to applicable rate.
 6. Entertainment: If 1 to 15% of total practice add \$40 to applicable rate (if more, coverage unavailable).
 7. Title/Abstracting: If 50 to 75% add \$100 to applicable rate (if more, coverage unavailable).
 8. SEC: Submit to underwriting because modification factors will vary depending on nature of practice.
 9. \$200 is maximum amount that can be added to applicable rate regardless of number of modification factors applicable to applicant.

Deductions possible:

1. If using a computerized system of docket control deduct \$60 from applicable rate.
2. If law firm has over 25 lawyers \$80 deduction from applicable rate may be available depending on length of establishment, loss experience and type of practice.

1. Paralegals, law clerks and secretarial staff are covered without additional charge.
2. Broker has binding authority unless applicant has SEC practice.
3. Company requires that coverage under one policy be purchased for all attorneys who share space, staff and/or otherwise give appearance of an existing partnership.

ALASKA BAR ASSOCIATION SELF-INSURANCE PREMIUMS

Deductible	Limit	Premium regardless of years in practice or prior claims
\$2500	100,000/100,000 *	\$100 } full-time or part-time private practice } (\$720 paid to insurance carrier; \$480 paid to Bar Association)

* Of this limit, the individual attorney is responsible for \$2,500 payable for claims and/or expenses. the Alaska Bar Association is responsible for \$22,500 payable for claims and/or expenses. an insurance carrier will be responsible for \$75,000 payable for claims and for stop-gap re-insurance for the Bar Association fund.

- 1) At inception, no surcharge is added for prior claims, type of practice or law clerks, secretarial staff or paralegals.

F
Committee Reports

W. EUGENE GUESS, 1932-1978

ROBERT C. ELY
JOSEPH RUDD
THEODORE E. FLEISCHER
FRANCIS E. SMITH, JR.
HERBERT BERKOWITZ
MICHAEL G. BRIGGS
AVID H. BUNDY
ARRIS SAXON
HILLIP J. EIDE
GARY A. ZIPKIN
JOSEPH M. WILSON
PAUL DESTEFANO
GENE R. NICHOL
ROBERT H. WOLFE
LOUIS R. VEERMAN
CLIFFORD W. HOLTZ
JOHN FOSTER

LAW OFFICES OF
ELY, GUESS & RUDD

A PROFESSIONAL CORPORATION
510 L STREET
ANCHORAGE, ALASKA 99501
CABLE ADDRESS: "NORTHACRE"
TELEX [090] 25-292
TELECOPIER [907] 279-8354
TELEPHONE [907] 276-5121

JUNEAU OFFICE
SUITE A
MENDENHALL BUILDING
JUNEAU, ALASKA 99801
TELEX [099] 45-365
TELEPHONE [907] 586-3210

NORMAN C. GORSUCH
STEPHEN J. PEARSON
GORDON E. EVANS
MONTE L. BRICE

JOSEPH A. McLEAN
OF COUNSEL

May 8, 1979

RECEIVED
MAY 8 1979
ALASKA BAR ASSOCIATION

Donna C. Willara
President-Elect
Alaska Bar Association
P. O. Box 279
Anchorage, Alaska 99510

Re: Statutes, By-Laws & Rules Committee

Dear Donna:

In response to your letter of April 19, 1979, this letter will constitute an annual report of the above committee.

During the past year, this committee has been engaged in consideration and drafting of proposed amendments to the Association's by-laws and to the Bar Rules. Principal projects included revisions to the discipline rules, which were adopted by the Supreme Court earlier this year, and the drafting of a definition of "the practice of law".

The committee's work generally is assigned to it by the Board, or the Executive Director, and the projects are routed through the chairman of the committee to various committee members. The committee's proposals are then sent to the Board for its consideration and review.

I would anticipate that the work of the committee during the next year will be conducted along the same lines as previously, although various members of the committee may wish to originate projects of their own.

Very truly yours,


David H. Bundy

DHB:gm

MAY 4 1979

Richmond, Willoughby & Willard

TAXATION COMMITTEE ANNUAL REPORT FOR 1979

In late 1978, the Board of Governors of the Alaska Bar Association approved the formation of a Taxation Committee, and appointed the initial membership of the committee. Subsequently, on January 18, 1979, the Taxation Committee held its organizational meeting. The membership discussed the goals of the committee, and created the following subcommittees:

(1) Legislative Subcommittee. The four members of this committee (representing Anchorage, Fairbanks and Juneau) will attempt to keep a constant monitoring upon tax and tax-related legislation which is before the legislature. The Committee intends to review such legislation, and where appropriate, make recommendations to the legislature. In addition, we plan to recommend needed legislation in the tax area. We will work with the Taxation Committee of the CPA Society, and propose unified legislative recommendations, where possible. George Goerig and Ralph Duerre are Co-Chairmen of this subcommittee, and the other members are Franklin Fleeks and Steve Pearson.

In April, the Taxation Committee met and discussed tax legislation pending before the legislature in Juneau. The committee's conclusions and recommendations were subsequently drafted and sent to the Chairman of the Senate and House Finance Committees.

(2) New Tax Law Developments Subcommittee. The purpose of this subcommittee is to monitor new developments in the area of state taxation. This subcommittee will bring such developments before the Taxation Committee for general discussion. In addition, this subcommittee will coordinate the preparation of monthly tax articles which will be published in the Bar Rag. The purpose of the articles is to provide practical, useful tax information to the members of the Bar. William Van Doren and Bernard J. Dougherty are Co-Chairmen of this subcommittee, and all of the members of the Taxation Committee will work upon the projects of this subcommittee.

(3) Continuing Education and Public Education Subcommittee. This subcommittee will coordinate, organize and assist the presentation of continuing education programs in the field of taxation. In addition, this subcommittee will provide organization and personnel for the presentation of programs to the public relating to taxation matters. Peter Ginder is the Chairman of this subcommittee, and Stanley Reitman and David Shaftel are also members.

Page two

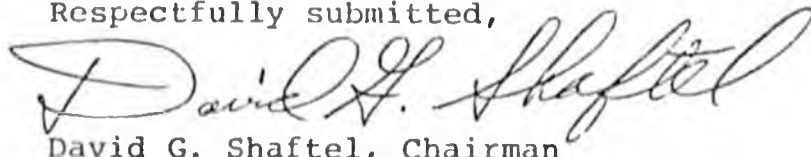
In addition to the above subcommittees, Stanley Reitman has agreed to serve as liason between the Tax Committee and the CPA Society, and has agreed to be the Law Library Resources representative.

The membership of the Taxation Committee for 1979 is:

Peter Bartlett	A. Fred Miller
Bernard J. Dougherty	Steve Pearson
(Vice Chairman)	Stanley H. Reitman
Anthony J. Doyle	David G. Shaftel
Ralph Duerre	(Chairman)
Franklin D. Fleeks	William Van Doren
Peter Ginder	Joseph A. Vittone
George F. Goerig	Thomas Yerbich
Bill Lawrence	

The Taxation Committee has monthly meetings on the second Friday of each month at the conference room of Cole, Hartig, Rhodes, Norman & Mahoney.

Respectfully submitted,



David G. Shaftel, Chairman

BERNARD P. KELLY
L. AMES LUCE

LAW OFFICES
KELLY & LUCE
A PROFESSIONAL CORPORATION
1015 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 279-9571

KENAI OFFICE
HIGHLAND BUILDING
P. O. BOX 3762
KENAI, ALASKA 99611

May 8, 1979

✓ Kenneth O. Jarvi, Esq.
President, Board of Governors
Alaska Bar Association
Anchorage, Alaska 99501

Ms. Donna Willard
President Elect, Board of Governors
Alaska Bar Association
Anchorage, Alaska 99501

RECEIVED

MAY 9 1979

GARRETTSON & JARVI
ATTORNEYS AT LAW

Re: Tort Committee, Alaska Bar Association

Our Tort Committee has met three times this year, and as you know, we are one of the active forces behind having a lobbyist in Juneau. Attendant to that, Norman Gorsuch was hired by the State Bar. I have discussed with Mr. Gorsuch the legislative areas of concern and can report as follows:

1) That a bill which would reduce the civil liability of the State for highway road defects did not get out of its original committee of recommendation.

2) That the bad products liability bill that would set a short statute of limitations and curtail consumers' rights did not get out of committee of original referral. We will probably see this bill again, since there is a big push in the State of Washington, and that state may have passed a bill similar to that introduced here. I may have that information by the time of the Alaska Bar convention.

3) That no-fault auto liability insurance did not get out of its committee of original referral and it seems to have lost a lot of its appeal with the legislature.

4) That a bill to exempt gratuitous furnishers of alcoholic beverage from liability, according to my understanding, is still in committee and will not pass this year.

As you know, the legislature adjourned on Sunday, May 6, 1979.

We are told that hearings will be held this summer on the matter of Superior Court judgeships for Anchorage, and it seems to be agreed that we will get one Superior Court judge. Our Tort Committee

Kenneth O. Jarvi, Esq.
Ms. Donna Willard
May 8, 1979
Page Two

will probably try to fight for more - probably three Superior Court judgeships for the Third Judicial District.

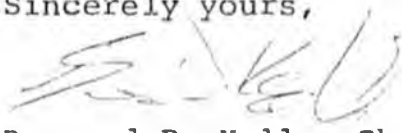
The intermediate Court of Appeals bill was defeated, but prospects for that bill also may be pretty good in the upcoming legislature.

We plan to hold one more meeting of our Tort Committee - if possible, before the State Bar convention - and I could report further at that time if you so desire. We would like to keep as much of our committee intact as possible, since we have a good working group.

We also recommend the lobbyist for next year, and we would like to remain active at the legislative level. I will try to keep a legislative file and note bills of concern that could be discussed with the Board of Governors for a position.

I hope this report is satisfactory and self-explanatory.

Sincerely yours,



Bernard P. Kelly, Chairman
Tort Committee

BPK:de

Judge ready for Circuit job

Alaska Supreme Court Justice Robert Boochever is looking forward to what he hopes is a new job on the Ninth Circuit Court of Appeals.

But Boochever, who is staying at his Anchorage condominium this weekend, said he will regret "the loss of association with the other Justices on the Alaska Supreme Court."

Like Fairbanks Chief Justice Ray Rabinowitz, Boochever maintains his main residence outside Anchorage and travels to Anchorage for Supreme Court sessions.

Boochever said he will retain one of his Alaska residences, probably his home in Juneau, and plans to visit the state periodically.

Sen. Ted Stevens announced the White House's decision to nominate Boochever for the San Francisco court Feb. 4.

Boochever's nomination will go to the Senate for approval once routine background checks have been completed. Senate approval is usually routine for appeals court judgeships.

If confirmed, Boochever will be the first Alaskan to serve on the appeal court.

"I'm looking forward to the challenge of getting more familiar with different laws and types of cases," the justice said.

"I expect to see more cases involving federal regulations and environmental issues" in the federal appeal court than in the Alaska Supreme Court.

Boochever, who has a reputation for being a strong supporter of the rights of privacy, said he expects to face different types of problems in the federal court.

The Alaska Constitution has a particular provision dealing with the right of privacy, while the United Constitution does not. Consequently the judge is dealing with inferred rights in federal cases.



BOOCHEVER

Random Potshots

"Can the Supreme Court Define the 'Practice of Law'?"

by John Havelock

On receiving his 25 year membership award at a September Bar lunch, Verne Martin recalled the circumstances of his first case. A dozen or so lawyers, the entire Anchorage Bar of the day, made a point of being on hand to congratulate Martin on his humiliation by a lay practitioner.

Willkey Jefferson, already a "living legend" 25 years ago, still enlarges his career. At perhaps its high point, Jefferson cost the Anchorage borough hundreds of thousands of dollars in legal defense expenses and costs of interest and bond sales disrupted by litigation. One might fairly ask "if the Bar couldn't put Willkey out of business, what is it doing asking the Supreme Court to adopt a definition of the "practice of law" reaching conduct far beyond Mr. Jefferson's busy practice?

Unfazed By Cannon

The Bar Association was evidently unfazed by Canon Three of the ABA Code of Professional Responsibility which recites, "It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law."

Perhaps the adoption of AS 08.08.230 brought this knotty task to the fore. There the legislature, while going out of its way to announce that its actions were founded on "the legislature's inherent power," criminalized the unlicensed practice of law "as that term is defined in the Alaska Bar Rules..." It may be that there is no prohibition on unauthorized practice until such a definition is promulgated. Take note Willkey imitators but first consult a lawyer.

Draft Ruminations

The Board of Governors approved a draft rule at the end of March of this year, a draft upon which the Supreme Court still ruminates.

It is not without its difficulties. One of the problems is that the same section of statute which calls for a definition excludes from the definition "the use of paralegal personnel as defined by the rules of the Alaska Supreme Court." How does one define the principle without also defining the exception?

The legislative action places in confusing juxtaposition two "inherent" powers. It makes sense that the power of courts should include, without specific constitutional recita-

tion, the power to control who may appear in courts, the conduct of parties and their representatives therein and closely related conduct outside the court having a major impact on the judicial forum. But, absent specific legislative authorization, what stretch of imagination and power allows the court to control the modalities used in transactional counseling?

Fiduciary Flimflam

There is a public interest in the control of various classes of fiduciary conduct. The giving of legal advice and the preparation of documents having legal effect may be activities which the legislature has a legitimate interest in controlling in the interest of consumer protection at least to the point where First Amendment rights take over. But does the court have a legislative power over such transactional management? It seems unlikely.

Claiming The World

Arguendo, the court may have an inherent interest in controlling the management of disputes which may clearly be heading for the courts. But of the sea of law which envelopes virtually all transactional activity in the modern era, pre-litigation disputes are but a small fraction. To claim an interest in the management of all transactions which could become disputes which could come to court is to claim a legislative power covering the entire world of human affairs.

Court claims to regulate the rendering of advice beyond the context of litigation are on soft ground. Is the ground firmed up by a delegation under "the legislature's inherent power?" The Court itself would probably say no. At least it said that in the Sabre Jet case when the court disclaimed power granted by the legislature to license liquor dealers.

Turf Tussles

With the integrated bar now under intensive review and lawyers' turf claims challenged on several fronts, the court today may be reluctant to move into an arena where it could end up with a legislatively bloodied nose. No inside knowledge is claimed, but it does not surprise this observer that the definition of the practice of law has been sitting in the Justices' in-basket for some time.

BOG Meets for Four Days in September

The Board of Governors of the Alaska Bar Association met in Anchorage, Alaska on September 6, 7, and 9, 1979. In addition to handling five bar examination matters and recommending to the Supreme Court disciplinary action in a matter before it as the Disciplinary Board the Board also heard reports from Nancy Gordon, CLE Committee Chair, Carolyn Jones, Legal Education Opportunities Committee and Mike Rubinstein, Executive Director of the Judicial Council.

The following actions were taken by the Board. Special committees on Specialization and Prepaid Legal Services were established to report to the Board in March, 1980 and report to the membership in June, 1980 at the Annual Meeting. A standing insurance committee was established and assigned the task of monitoring the Bar endorsed Professional Malpractice program and the Bar sponsored group health and life programs.

The proposal of Bill Erwin and Joe Kalamarides to prepare and write a Workmen's Compensation manual for members of the Alaska Bar Association was tentatively accepted by the Board. The Board considered budgeting \$5,000 in 1980 to pay for secretarial and manuscript preparation. Erwin and Kalamarides agreed to present a CLE program at which the manual would be distributed. They also agreed to present a CLE program at which the manual would be distributed. They agreed to present a budget to the Board in December.

The Board approved a line item budget procedure and determined that the budget for each year would be considered at the December meeting. By unanimous vote, the Board decided to publish for membership response an amendment to the By-laws of the association which would provide for the election of a Treasurer. In the interim, Pat Kennedy was selected to act as Fiscal Responsibility Officer until the Annual Meeting in 1980.

The Board adopted a policy requiring support staff evaluation in December for annual merit raises. To effectuate the policy, merit raises will be considered in December, 1979, which raises, if any, will be effective July 1, 1979 for the remainder of 1980.

Several rule changes were forwarded to the Supreme Court for its consideration. These changes make all time periods for Committee appointments consistent. The Board also approved an Association By-law change establishing an adjunct membership available to lawyers employed in the State of Alaska by the Federal Government and in-house Counsel. Without taking the Bar Exam, such attorneys can apply for

ALASKA STATUTES



Support
Our
Advertisers

Just a Phone

ABBA MTG.

JUNE 1979

#3

Sitha Hotel 747-8657

nights of June 6 - June 11

twin room w/o bath

total Per night \$24.96

747-3288

6/7/79 Norm Gorsuch -

Products Liability - Sen. Commerce
Limitation

Sumner review - AK. Bar Issn. July
1, 1980. requires statute to continue
its existence.

Supportive of court system effort to
est. a court of appeals; court
system - money to permit grievance
procedure - \$65,000 - (norm - say, approx)
conflicts appropriation - Bar
supported.

→ gradually increased since ^{several} yrs.
from 40,000 - inflation factor.

John Havelok 6/1/79

Least reviewed dep. in country
May to May review - 228 opinions
vacation 1/3 of yr. seriously
70 - 156 opinions.

sustained

reversed

particular judges

Per curiam opinions -

8 - May to May 78-79
16 - 76

31 sentence reports
about 100 oral
100 annual

Trend has been all along

← largest single category.
very diverse it; not take
a lot of time.

Over twenty categories of
kinds of cases:

Search + seizure	18
Review of evidence	12
interpretation of sentenc.	9
Jury instruction	6
speedy trial	6
Juvenile waivers	5
Jury management	3 - trial level
Statute construction	4

Criminal law - effected whole
population much greater
than any other issues

Search + seizure

Snider case - Airt. employee

Quinn - check out search

Stass - privacy case

Quest - reasonable belief age.

Statutory rape.

Webb

All to legislative ruling - insanity;

preponderance - BIP

Rust - state cops - Δ has

rt. to treatment

Summers - City of Anchorage -
Prostitutions - commercial non-
public establishment.

Civil -

corp. + partnership - 2 cases;
Brown Misrep. proxies. (free from
Fed. sec. reg. - ANSCA) case
Common law standards

10 Domestic relations - no
great legal profundities.
Some estate law

Rules of evidence - Scott v
Robertson you can admit
evidence of criminal
conviction in civil cases.

Day Coalition - public
forum - Blue Book.

3 Public Utility Reg.

9 debt, foreclosure cases

4 Cases Public lands

Campion v. Newbert - 10 minutes.

Upheld vt. of ~~commitment~~ to reject
to 100 oil lease bids.

No. Slope Bor. v. Delesh

No. Slope Bor. v. Sohio - taxes %;

moved in during special session;
requires re-thinking, otherwise
division by geographic.

reversion case - state gets.

13 negligence cases - couple
of big product

Latipillor case

Stem Beck case

Municipal notice - Johnson v.
C. of Fpxs.

Extent to which municipalities
16-20% all cases - litigants.

malpractice Priest - standard
of care - same community
P. Umbly v. Hall attacked

leg. on final passage rule -
rats be recorded in each
chamber; left all statutes
standing - but provided relief
to specific litigants.

Atty fees - 10; too much time
spent on.

Lind - Hootch; no prevailing
party was in settlement.

Mathews - should be a
matter of K - in dissent
Havelon thinks better rule.

Public Censure - Pac. reptors.
Atty situation.

Brd. not have to re-grade
Exams.

P.D. case - State v. Clayton.
harrasment case - \$100.00
fine - court handle since no
jail time

7 Workman's Comp.

— Women's Pts.
lifting, bathing; state fought
case!

B-Boy - bartender; punched;
claimed Workman's Comp. -
Froth of his own.

6 govern. regulation cases.

15 - R cases

least discussed - happy it
is put over. lot of issues
in that proposals - not
adequately used.

Division between civil
and criminal - not sure
good method.

Jay R. 6/7/79

Court of Appeals

① Study by ABA; panels, adding.

② doesn't like

A. sunset

B. mandate (likes) - Resolution

C. Civil jurisdiction - Dist Ct.

Cases.

But as for const. court - thinks
OK - contrary to Resolution.

Barry Jackson case

③ conflicts rule - get cc.

④ new rules of evidence

⑤ cutting down on papers
filed into court.

⑥ Instructions under new
Crim code - Barry S. can't
do alone - should get \$
to do from Leg.

Jury - Selection - Spurger CLE
Challenge for cause - Blood relation
Challenge to the favor - discretionary
With the judge.
preemptory challenge -

convey info to jurors

Cocktail Party - conversation with
Judge Hugh Conelley. 7/7/79

he supports and designed the
resolution on Court of Appeals.

desires to limit court to just
criminal jurisdiction; in
fact he likes the Texas
system with Sup. Ct. for
Criminal and separate
Sup. Ct. for Civil matters.
Rationale: expertise built
up in Criminal or Civil areas.
Attys would be selected
from those fields.
When asked about the

Overlap problems - Reason given by Court system people for not going this route. He thinks no big problem and we should study Texas System

desires it to be a constitutional court. Requires Const. amend; then court would have inherent powers.

Other items not in resolution:
5 instead of 3 judges
qualifications BS in Const.

61

Bill in legislature:

Represents Creditors - doesn't like HBSL: HK. Exemption Act.

Debtors will probably like.

Amends to UCC - 1972 amendments definitions minerals + timber.

Bert Rozell

says de-integration of bar assn. is not a life and death matter to him. Believes that integrated bar is best method for Alaska since bar assn. is so small. Also said that problem with non-integrated states, i.e., N.Y. - not even know where their attys are.

Varen Hunts.

says admission & discipline would be handled by Sup. Ct. probably and that they have inherent power to control practice of law. Thinks legal, despite view that bar can't be done in since in Const. - Court system - legislature not have authority to deal with.

DUTIES

✓ Speak to Hunt - integrated - non integrated Bar Assn.

Kozell

Link



~~Donna Willard~~

Rabinowitz - Court of Appeals - why not Texas System
method of getting before Sup. Ct. certification up to Sup. Ct. as contained in Parr Draft.
non-integrated Bar - shift responsibility of Admissions + discipline to Sup. Ct.

✓ Person who addressed himself to AK. Exemptions Act.

Havelok - Court of Appeals - jurisdictional issues + the need for it.
Also type ^{Crim} Code - disson. on drugs.

Bernard P. Anchorage, AK.
Kelley - Products Liability

Isuzu Urban
V. "Marine"

Bech v.

Dave v. Stern Berger

} design

2 types of defects -
giving rise to strict liability -
mfg. defect or design defect

Butold, "shidoo" at top speed;
not maintained properly by
owner; guard was of inadequate
steel; drive belt broke - due
to improper maintenance. #1 -

Adopted Calif. cases - not saddled
w. 402(a) Restatement - unreasonable
dangerous. Rejected that criteria.
Rejected Patten test of liability.

also ruled + affirming Bohner -
no defense unless knowingly
used.

Butold #II. Comp. ^{arative} neg. would
be a defense - incompassing
misuse, excessive speed, failure
to maintain = defense.

555 P.2. 42 - comparative neg.
TI must prove same elements.
speaker disagrees with. focus
is on the product; not on use.

most of cases are design cases - key
study, determination, key plan.

#II forces TI atty to go into - And go
for punitive damages.

„Catipiller

Beck Court - Several policy
pg. 10 memo. decision; eliminate
proving fault; not sure how
helps if have to prove greater
fault on mfg.

p. 22. but still have to compare

Ch. go Calif. all the way; Barker
defined jury instruction & law.

unreasonable & knowing; in Beck
matter reversed; T5 went too far;
J. Connor wrote; must prove defect;
went to describe - Barker test. (design
defect only). reasonably foreseeable
manner; BIP on you to show reasonably
foreseeable.

test #2 design causes injury; returns
to neg. standard, get focus on product;
what feasibility; he would rather
go under 1st test.

Beck - really shift BIP to A; to show
damages - outweigh problems -
change in design.

Dave & Stern Krueger - revolver; firing
hammer - 4 positions; safety, loading
notch; full cock notch, resting on
pin; attempting to load gun;
gun slipped - negated it to
prevent falling to floor of truck;

Court said could be comparative
neg. This was something that
could have happened to anyone.

mere inadvertence - should go
to jury - to deter. Whether
comp. neg.

Jury found that Δ should pay
punitive damages. Evidence
enough to go to jury wanton
misconduct. 2 mill. too much
money to award. $\$193$ would
have prevented danger.

37 Am. T. L. Journal - Ordinary
neg. not defense to wanton mis-
conduct.

Criteria for jury -

Criminal Code -

Manual being prepared that
will be distributed by bar.

Barry drafted code.

Criminal Code Sub-commission.

all segments of criminal justice
system; published 6 tentative
drafts.

Model Penal Code = research tool.
relied on Ore*, NY*, & Haw.

Mo. + Arizona to lesser extent.

Ore.
NY] good cases.

Legislature made numerous changes
to tentative drafts.

67 changes made in Senate.

Senate ⁴⁷ Journal - commentary is there.

Manuals - will be sold for
\$20.00 (approx.)

Cross ref. what crime under old law
will be under new code.

also preparing a derivation
of the code - i.e. sources.

Presentation before Judicial
Conf. also train Peace Officers
DA, Judge
three CLE Programs in
Nov.

All of Title II was revised
but for 20 exceptions, i.e. abortion
statute.

In addition new sentencing
scheme in Title 12; presumptive
sentencing. repeat felons get
time, absent mitigating factors.

Motor vehicle law
drug law
fish game } not effected
in other
titles.

20 10 5 yrs.
felonies = A, B, C

Mis. = ^{1 yr}A, B, < 90 days

uniform penalty provisions

murder 1, 2 } unclassified
+
Kidnapping }

Judicial discretion narrowed.
for sentencing

Mens rea - intentional
same as knowingly
model { ~~reckless~~
penal code. negligent

Aff. inactive defense - prepond.
of evidence. Entrapment -
17 other defenses.
upheld by US Sup. Court -
Patterson v. NY.
durus, etc.

Person

homicide - felony murder = 2

1st. degree murder - premeditation, ^{degree not need}
only need intentionally.

felony murder = nonparticipant in crime.

heat of passion - defense.

being intoxicated

* drunk driving - kills someone =
manslaughter bec. of knowing
element.

Child stealing - custodial interference.
if removed from state = felony.
otherwise = mis.; must know that
has no legal rt. to child.

otherwise discretionary
Modification of Sentence - one entitled to
good time - one day off for
every 3 days good - 2/3 of sentences
will serve.

Class A - 20 yr.

B - 10 yr.

C - neg homicide. 5 yr.

when imprisonment likely

(2550:15)
fines in another section.

Organization - up to \$100,000 fines.
or 3 x's pecuniary gain.

presumptive terms - specific
mitigating + aggravating factors.

6 yrs. presumptive term - with
fire arms or serious injury -
1st offense.

prior offenses also jump
presumptive sentence.

prior convictions - hearing +
notice required. Ability
to deny; other jurisd. -
similar to AK law and
would be a felony
under AK Law.

5 problem areas

① affirmative defenses

Patterson v. N.Y.

Issues: [presumption of innocence
BIP on state
particularly clues - mens rea
5th Amcl. - you as Δ has B.
myth to carry this burden
w/o putting on stand.

② felony murder conviction - any person

③ Intoxication - not a defense, presume
knowledge, drunk driving -
2nd degree murder.

④ Contributing to Delinquency
of Minor - worst drafted,
everyone could be charged
under this.

permit any child to
violate state law. - litter,
license violation.

Bill will be pre-filed
next section.

⑤ Renunciation Statute - must
tell police about conspirators;
if afraid of other criminals -
might as well do it.

if motivated by fact
that afraid caught - then
you can still be charged.
"Pure heart" concept.

June 9, 1979 Business Meeting

1. Proposed Reciprocity Rule

72 or 73 - when Ah. had a reciprocity rule which was ~~to~~ removed during ~~the~~ pipeline yrs. feared influx of attys. At march meeting, changed atty. exam rule. Savell - states "mid-age retirement proposal" affected or covered by rule. Study Bar Exam - Mar. meeting ~~sp~~ spurred on by McKinnon's ~~member~~ Bill in leg. Havelok - believes unconst.

Result: Voted.

2. Amendment to DR 2-102(D) Re: Firm panels.

Sup. Ct. refused to follow rule.

Moved to ratify.

Query Const. or anti-trust problems.

Const. / anti-trust - U.S. Sup. Ct. - ^{attys} do not have
absolute rt. to appear in another state.
liability question - one person associate
in AK Bar; yet 70 or. atty. are safe.

Can control who practices by
Admissions, discipline, etc. Sanel
Believes can control names.

Rule here same as NJ and
upheld here. Abuses have been
documented. Misrepresentative
as to areas of expertise of those
70 or. attys. *alleged abuses and
memos not given to members
here; (mentioned by Hunt).

Rules / associations - this rule doesn't
effect that rule, 10, 81.

~~to~~ one person believes that rule
being proposed to protect AK Bar
really and not the consumer.

Messinger - not seen documentation
of abuses. why not remove
names of those deceased.

passed.

Resolutions

1. approved/ratified w/o discussion.
2. amend- ^{Pres. to APT. a)} committee to
prepare study to submit to
next 1980 AK BAR meeting. (or
alternatives).

some 68 separate types of plans
in 50 states of union; Ca. have
been attempting for 7 yrs. to
adopt plan. Teamster Plan, Laborers
Plan are here now in AK.

to general public; to just Attys; or
to segment of population - noncriminals,
many varied plan.

Resolution 3 - see it

Resolution 4 - see it

Resolution 5 - present

financial situation drastic
cut back - 17 hard \$ Atty;

ALSC Bd. against it - doesn't
express priorities of Bd.

Att Peter - there is no Act;
there is a fed. act - presumption
probably invalid; priorities -
all offices have been
handling divorce - policies
of priorities - est. by Bd.

Should direct to Bd. or
fed. system.

Tabled.

#6 - office furn, supplies +
equip. - Bd. wants
to amend to est. committee
to study.

#7 amended - meeting ALSC - publish schedule
minutes of
its
meeting.
(in Law libraries - AS BAR docs)

What does Bd. of Gov. -
do - library -

ALSC - doesn't object to
meeting - but doesn't have
them - 2-3 months in
advance; Aug 17-18 -
Anchorage - meeting -

Resolution 9

standing masters - sometimes
merely law suits.

Acting dist. Ct. judge - some
law clerks - set bail, arrangements;
no objection to probate
masters, yet use of law
clerk - expenses to clerks,
gets around judicial qualifications.
Contact with Ct. - most AK = traffic
Ct; small claims + divorces -
yet here get non-judges.

preempt. a masters in Fbx.; not know
who you are going to get.
adopted by Fbx. bar assn.

Laren Hunt direct position
statement to brd. of H.

doing it for long time -
good record, why get
into est. another Burey.
costs, etc. when doing on
on.

yet 40% - 50% of
discipline paid by
Court System money.

Admissions paid by
applicants - screening.

Resolution No 9 cont.

Anchorage - serious calendar problems - wants to be excluded; Intent of resolution - additional judges - need to be funded. Solving problem - get rid of standing masters - yet \Rightarrow delays - they would ~~file a resolution~~

rather take the delays.

FBI's Dick Savell - contact person for resolution # 9 > source for abuse.

Anchorage - full time standing masters;

Eliminating standing masters - irresponsible;

J. Blair - is a local problem; has heard complaints from - but unsubstantiated. Supp

he will deal with it; urges
that it be rejected and
handled at a local level.

Tom Irwin - some unqualified by Judicial
Council serve as Judicial masters -
Source of Abuse contact.

#10 J. Hugh Connelley - supports
this; 2yrs. Boock - State of judiciary -
advised use - that they were
considering this; became aware
of it - poll taken of Bar Assn.
not a great no. of responses.

Bill introduced by Zig. This
session - Administration of Ct.
System; # of hearing by Tanana
BAR ASSN.; Position - not
be passed this session and
no. of amended. be made.

original - ~~original~~ Bill
Sup. deter. jurisd.
of Ct. of Appeals + take what they
want, any sentence in criminal
45 days or more - 1yr or more

present statute:

J. Rah. objects only to # 1.

if left in that form - delay the
est. of court; Art 4 Sec 1 AK const.

const. held to have inherent
powers; ~~that leg. courts don't~~
have - Pete v. State of AK.

no position on judicial qualifications
committee - needs a constitutional
amend.

Berch - rationale for # 3 -

Court will be in Anchorage -
\$\$.

query

↳ 6 months - entire court -

Guess he supports this.

Here > Sup. Ct. has too much
work load; Trial Court
of Appeals - how get around
this unless const. Ct.; deter.
will have to be made whether
court; doesn't see how will

Solve problem unless error
amendment. one appeal as
a matter of RT - after
first cert. => then file
amendment.

move to lower #1. from
Rehabilitation.

Boon State - Leg. After mediate court
of appeals - no court
of problem has been found.

more to amend: Be made a
court court. Judge -
not upgraded with statistics
showing need. ought to
place the court before the
people - through the cert.
amend. proceed. > their own
interests!

Amend. carries.

Move to take the balance
of the resolution.

held out of order.

motion to table 2, 3, 4 - fail.

234 - approved as well.

#11 > electronically recorded
for 2 yrs. public record -
~~at~~ except as those
consid. confidential by
bar rules.

Ken Janzen > are public
proceedings, affairs of state;
matters decided by Bd. affecting
public - forced to rely on
cryptic notes; reinstate electronic
recordings.

Conference call - can be recorded
and Bar office has equipment

Resistance by Savell - FTC investigation

#12 funds dispersed - budget -
published + distributed 30
days prior to ~~publish~~
Janzen fiscal yr. + also send out
'79 Budget. "line item" budget
required.

Some yrs ago imposed a financial
Statement - do have "BAA AAB" financial
Statement - surpluses no longer exist.
Assn. members - travel to conventions
etc. Purpose to restore to members -
value judgments - where \$ spent.

→ record in JUNEAU - CASE ARGUED.
\$ 8,000 Horowitz CASE Atty fees.

get opinion from Bruce + status.

hamstringing Bnd. of Gov.

Hamstring - fact is we are Public Agency -
Bigger biz - no longer run this
→ like a private club; can be built
into - an emergency feature.
→ god help ~~of~~ us if we lose control.

amended to state ability to ~~to~~ shift
from one line item to another
line item. Amendment carried.

don't publish in advance or after-
wards.

#12. result: passes.

#13 members of Brd. gov. - reimbursement
by receipts - NO flat per diem rate.

Sanell: \$75 per diem -

Result: 1A tabled.

#14

AK Brd. of Gov. - no advance payment, no
est. to be a Bank American Co.
move 1st. and 2nd. TR division.

Tabled.

Resolution #3 — moved to PASS.
must come to grips with it at
some time.

15 hour requirement in Washington
BAR;

moved to substitute Committee
Report. Result — substitution Passed.

Anchor BAR ASSN. favors = 5 hrs.
per year — in state programs — 30 hrs.
OR MORE.

Nationwide selection of CLE courses.

Result: failed:

Judicial Conference 6/11/79

J. Rabinowitz:

Judicial Council - preliminary sentencing report; Blacks and natives - lengths of sentence; worst than anything seen in Southern States; 2x's sentence, etc.

natives less likely to receive probation;

query: ^{size} sample, methodology; should go into bush.

Sup Ct. Study - Blacks + Natives treated differently; Supreme Ct Study verified. Erratic discrimination - there are instances where whites get less favorable treatment.

Judicial Council - should review - on yearly basis - also include misdemeanors;



Juday Smith

1st of type in the country -

Judge Smith:

98% of prostitutes arrested were black;
this became labeled as racist.

attitudes re: use of deadly
weapons and privileged class -
instead of looking into
individual's ability to be
rehabilitated. J. Smith made
it a practice to visit
prisoners whom he had
sentenced. Minorities everyone
thinks of Blacks; Blacks
claim to be largest minority -
Hispanic people may will
be largest - wedded by
linguistic common bond;

Ethnic Breakdown for AK.

30% Black ^{8,300}

78.8% white

5.4% Natives

9.2% Eskimo

2.2% Aleut

.9% Asian

2.1% Spanish
Speaking

.5% other

23.3% = total minority groups -
1970 consensus.

1/4 of judges should be of
minority groups.

Whites tend to treat more gingerly
those who are black; thinks
this great white father syndrome
is worst than to be a conscious
racist. Should look at public
interest, nature of offense, instead
of color.

indep. judiciary

sep. of powers

willing to come to this conf.

greater potential in America \Rightarrow
justice - during this generation.

many, largely historical, faults in
American system of justice.

victim of educational system.
White male persons; Built
on blood of all persons -
women, racial groups.

we should not be offended
by being called racist. Should be
if don't do anything about it.

Important to recog. who r. minorities
are: 1970 census

650,000 American Indians
(150,000 less than 1492, ; 15,000 yrs.
they were here)

1:120 hispanic - P.R.

5 mil. P.R.

6.7 mil. Mexican Americans

Asian - 491,000 Japanese

435,000 Chinese

344,000 Phil.

100,000 Haw.

1.7 mil. of Asian

2 mil today + rapidly
increasing.

Developmt of law - Black persons.
now female persons.
also reverse discrimination
against white male.

Commerce Clause of U.S. Const.

Art 1, Sec 8. as it relates
to equality of person.

14th Amd - due process
Clause - privileges + immunities
provision.

1896 P. v. Ferguson > Citizen of La. 1/8 Negro
blood; white R.Ry. Car; upheld
conviction. Harlan dissented - no
superior dominate class, Const. is
color blind;

1954 Brown - seg. schools inherently
unequal.

56% of schools in South are integrated.
16% in North - invidious discrimi-
nation; H. in front yard.

Can't blame or throw rocks at
one geographic area in Country.

1900 - 1913 - ¹⁹²⁵ more than 1000
black persons lynched

Scotsboro cases - 20 or 30's, blot
on judicial system; still going
on to some extent.

Juvenile Court laws - involved with
along with Takagi. 112 yr.
sentence on 13 yr. old person;
happens to be Blah. treated as
an adult; Query should there
ever be such a waiver for
merely an accomplice. (Recent Fla. case)

Monitor language; title in court.
witness refer. to prostitute as "sally."

Case being defensive about
Reason for conference.

~~Case~~ Case - felt wrong.
psychiatric evaluation
upper middle class family - pushed
to far

2 yr. college - punished him - should
have known better.

presumptive sentencing - simplistic
response to racial bias; strongly
believes in individual sentencing.

Psychologists, psychiatric - motivation
strongly believes in.

Believes that prison help
no one, warehouse to keep
them off the streets. Archaic
principle \Rightarrow prisons. Prison architecture
is of 1850's.

Dr. Lindy Sata, | St. Louis Medical
School of Alaska | School

penal
Eagle R. } prisoners
3rd + 6th }
Anchorage | 4th Ave

Federal Penitentiary, Mexico. "We are all
guilty."

100 Asst. psychiatrists in U.S.
7% of total.

he is only one that is a chairman
of depart - Medical School.

Natives are in despair. Subsistence
lifestyle. Whites come to AK. for
freedom. Whites made life ~~for~~
terribly complex for them.

Passing laws - regulation - impossible
to legislature ~~at~~ a life style.

I don't understand the white man's
law. "What charge" - I read 9 yrs.

Conceptual problems - how
administrate justice + educate

persons. Whether laws we have
address the needs of AK. Natives
or those which settled 1ath.

Monetary / subsistence lifestyles are
very different. Education of young
people - loss of persons from
of villages. Lack of understanding -
disenfranchisement from main
stream.

Whites and Natives - no interaction
Natives drink to get drunk. Immerse
into conversation of their oppression;
Producing & selling an artifact -
re-sell for higher price.

20-65; older people loss
of contact with old life style.
Young impatience - monetary
value.

When study came out
felt a victim. Natives victims
all lives.

Within last 4 yrs. - certain
strains of Asiatic people - can't
metabolize A_2 - enzyme missing.
Whoever so, reflected in Bloodstreams.

A12 higher concentration.

no one talks to the felon; client and defense atty - miscommunication.

more A12. Natives in legal profession + criminal justice system.

People respond - culture bond;
Judges rely on officers of court;
don't pursue whether perceptual
distraction.

People didn't go to jail;
jail facilities - difficult for Bush
Natives.

9/10 crimes - on A12 -
what can we do -

Natives - undergoing rage,
acting out during drinking.

Prof. Takagi

Read the sentencing study.

Institutional Racism:

Better than three charges of being arrested, etc.

96% judges = white
98% Atty's.

Education - authoritarianism \Rightarrow white tests are usually culturally biased.

Generally - left hand, just live

Query race crime and punishment

go hand in hand.

Statistics - prisons/parole

② Reported crime > crime rate \neq related to use of imprisonment

inverse relationship - more
lenient, more crimes.

③ Arrest rates increased but
for rape + homicide.

Kind of offenses \Rightarrow jail same as
always.

Robbery + Narcotic offenses increase \Rightarrow
jail
Carcerney - decrease.

50% Spanish summoned / more Blacks
sometimes 80-90% / in jail

Blacks are arrested for
robbery + narcotics offenses.
 \Rightarrow or differential sentencing.

Blacks + Sp. not committing crimes
on increase \Rightarrow jail time

strong relationship - use of
prison & unemployment
rate.

penal; deaths-homicides,
mental hospital commitments, etc.
increased after 10% up unemployment
for period of 5 yrs.

unemployment or inflation - lowest
~~strata~~ strata of society come under
attack.

sentencing criteria: (1) comm. roots
(2) stable employment
(3) provided support
for wife & children.

Times of economic crisis - explains the results.
pg. 144 90 days - unemploy.
greater chance
of

married, private counsel -
less chance.
if minority, single unemployment.

Courts harsh during
economic times, people
of color suffer from
unemployment.

incarcerate only as last
result - don't rehabilitate
but punish. Don't punish

\$25 or 5 days - poor goes to jail.

ban on plea bargaining →
conservatism.

AK. sentencing studies
you believe
statistical valid?

Carlson felt that national
statistic similar to AK, but
for added phenomena - Native
willing to go back to village
gets probation.

presumptive sentence - 2nd
offense take it out of
marriage question.

solution - basis of offense, rather
than sociological factors.

Judicial Council - employment isolated
as factor;

prisons don't work, action in
legislatures - mandatory
sentences. AH - society wants
more punishment.

trend in private industry -
effort to control one's
work.

Judicial Conf.

6/12/79

Indian Child Welfare Act -

impacts - CINS

Office of Sec.

Sec. of Interior, Wash., DC.

202 40

Change
Abstract
Note

Stewart - stated may be constitutional problem with respect to treating children differently.

Drew Days:

Doesn't matter whether the findings of Judicial Council are valid; they are perceived to be valid, hence you have a problem.

stereotypes + attitudes affected the complaint - acceptance process.

They'd take more against Spanish Surnamed Americans - while he was a prosecutor in Texas.

Germans + ~~Texans~~ ^{Mexicans} from Texas had
clashes. Work ethic of Germans;
etc.

eliminating plea bargaining -
may be a plus - difference of
opinion from Tagbagi.

Correlation - between minorities in
process - possible solution.

Police abuse went down where
increase in minorities. - where
Black mayor + Black Chief.

Prosecutors were really the
problem - cultural differences -
unable to negotiate.

if community understands
and agrees with conviction.

Sample small - large sample - ^{indicating} bending over
backwards;

how many white arrested during
pipeline yes - Compared to Blacks + Natives.

Is the study valid?

Come with presumption that there is some validity to the study. Additional work is being done.

doesn't study who was arrested.

Loisida Wolf

Thingit - Klukwan, Thunderbird House.
Bureaucratized oppression.

William Paul 1st Thingit lawyer -
Anti discrimination statute in
Territorial day.

police

prosecutor

defense council

These areas should be looked into, but judge is the primary actor.

Thelma Buchholt >

what happens when philo.
gets arrested. may be regarded
as foreigner -

Judge sits in podium, in
medieval robes.

fear of naturalized citizens -
might be deported.

cultural barriers - even if
speak the language; don't understand
courtroom procedures. probably not
socialize with them.

Public Def. - not communicate
with, feels that Def. makes deal
with prosecutor; if come before
judge - her people - suspicious +
think always guilty.

Ron: Social Scientist. linguist.

communicative style; potential for
misunderstanding. from arrest to
departure - a lot of face to face
encounters all along the way.

pauses vary with ethnic groups.

first speaker controls the conversation.

If faster speaker goes first,
then controls.

Study of Athabascans - slightly
slower than whites. Value

perception of Athabascans - way
of showing respect is being

silent. Potential of racial
stereotype "the silent Indian".

Whites interpret silence as
hostility.

Racial stereotypes - relate

to mechanics

+ value systems

} in face to
face to
interaction.

Kemp: Human Rts. Commission.

Believes that there are racial prejudices;
but judges can do something.

Objectively look at what you can
do.

duty to learn about society, what
makes it tick. ~~Duty to~~ discontinue
more training - Police, DA, Public Def., Judges.

⊕ reviewing pre-sentence report;
he is doing a study right now.

→ Better trained parole, and probation
people - ones who write sentencing
reports - many inferences.

21 native languages. in AK.

7% verbal

30% tone

rest is non verbal

Edward T Hall - 3 books on body
language.

Strong biases within Native groups.
Eskimos - Tlingit. Never asked
to pre-empt.

⊕ Drug sentences - have done a
mini report. Kemp

What were judges response -
over or under sentencing
reconv.

⊕ Roger Lewis - Criminal Justice Plan.
Sent by Charlie Adams.
(asked to look into sentencing for
Boremo) Not on best statistical
base - use of ~~£~~ legislature money to
re-study.

after noon session: 6/12/79

Michael K. should have been here,
just returned from vacation had
gotten sparks - but he had family crisis

will go over with dispatches } J.C. White
advised Project. Reub. } to go over these
methodology Sparks } studies.

J. Shultz has great deal of knowledge
Statistics

* Note: Send letters to Jay R.

Nix: no internal mechanism - Trooper =
Kaiser. We ^{have} been reviewing internal
structure - for last 4 months;
probably will re-structure to better
handle these problems.

Mag. Schaefer. Being aware of problem, trying
to deal with it, a great deal here
are defensive

North Slope Bor: Director of Public Safety
the other justice system -
The Bush; lived as minority there for 7
yrs. 50-60% Native depart in Barron.

North
Slope
Boro.

Criminal Justice - Bush

System, exploratory study -
need for equal protection, Molly
Hoatch, type case.

Corrections 9 - Man.

11 th June - 24 women admitted

16 felons - were minorities

or lived with minorities

same bias in his corrections; he
had to sue for his job.

financial + racial two factors →
disparate treatment.

arrest process

type of charges - bias evoked,
courtroom demeanor, etc.

Robinson: Solutions: likes sentencing guidelines;
goals of sentencing →

North Slope:

Mandatory sentencing DWI; Urban
problem impact both communities;
Judges not stay long enough
to know community attitudes or
subject to community criticism
of decisions.

Robinson: # of Native And Black lawyers

Small

Correction's person very hot.

~~Robinson:~~

Mag. Symmiller: misrepresented
Klukwan suit -
stated that Feds
said there is no tribal
law
also stated that judiciary
does not make laws.

Robinson - finally stated that he would
pre-empt certain judges bec.
racist.

Booch - need more specific sentencing
guidelines. Sees many's sentences
he doesn't agree with; will
continue to have disparities til
we get this.

Nora Quinn: need sentencing
~~alt~~ alternatives.

$$\begin{array}{r} 6.24 \\ 2 \overline{) 12.48} \\ \underline{12} \\ 8 \\ \underline{8} \\ 0 \end{array}$$

6.24

Wednesday Rocky's

Ours: 14.56
 14.56
 24.96
 34.32
 34.32

$$\begin{array}{r} \$122.72 \\ \underline{61.36} \\ \hline \end{array}$$

$$2 \overline{) 122.72}$$

$$\begin{array}{r} \underline{12} \\ 2 \\ \underline{2} \\ 7 \\ \underline{6} \\ 12 \end{array}$$

$$\begin{array}{r} 28 \\ \underline{20} \\ 25 \\ \underline{12} \\ 13 \end{array}$$

61.36

61.36

$$\begin{array}{r} \$122.72 \\ \hline \end{array}$$

90

$$\begin{array}{r} 122.72 \\ \underline{6.24} \\ 29.86 \end{array}$$

$$\begin{array}{r} \$1 \\ \hline \end{array}$$

Program

1979
ALASKA
JUDICIAL
CONFERENCE

Sitka

June 10-13, 1979

Shee Atika
Lodge

June 11 and 12 of this program is co-sponsored by the Alaska Court System, the Alaska Human Rights Commission and the Community Relations Service (CRS) of the United States Department of Justice.

ALASKA JUDICIAL CONFERENCE
SITKA
June 10-13, 1979
AGENDA

Sunday, June 10

- 4:30-4:40 p.m. Welcoming Remarks
Chief Justice Jay
A. Rabinowitz
- 4:40-7:15 p.m. The New Criminal Code
Barry Stern,
Assistant D.A.

Monday, June 11

- 8:30-9:00 a.m. Introductions
Chief Justice Jay A.
Rabinowitz
- Niel Thomas
Alaska Human
Rights Com-
mission
- Robert Lamb,
Regional Director,
Northwest Region,
Community Rea-
tions Service,
U.S. Department
of Justice
- 9:00-12:00 noon The Judiciary and
Ethnic Sensitivity
Judge Charles Z.
Smith, Professor
of Law, University
of Washington
- 12:00-1:30 p.m. LUNCH
- 1:30-2:00 p.m. Interpreting Cultural
Characteristics -
Dr. Lindbergh Sata
St. Louis University
Medical Center
- 2:00-4:30 p.m. Patterns & Trends in
Incarceration Decisions
Professor Paul Takagi
Univ. of California
at Berkeley

4:30-5:30 p.m.

no session

In re. matters concerning
the Alaska Court System
(Executive Session)
Chief Justice Jay
A. Rabinowitz

Tuesday, June 12

- 8:30-9:45 a.m. National Overview of
Ethnic Sensitivity in
the Criminal Justice
System
- Draw Days, Assistant
Attorney General,
Civil Rights Division,
U.S. Department of
Justice
- Gilbert G. Pompa
Director, Community
Relations Service,
U.S. Department of
Justice
- 10:00-12:00 noon Panel: Alaska's Minorities-
Perceptions of Grievances
and Problems
- Jane Yamashiro, Moderator
Thebna Buchholdt
Bob Kemp
Ron Scollon
Rosita Worl
- 12:00-1:30 p.m. LUNCH
- 1:30-3:30 p.m. Panel: Indicators of Bias in
the Criminal Justice System
- Bill Nix, Moderator
Bill Green
Nora Guinn
Kim Moeller
Chuck Robinson
Foswell L. Schaeffer
- 3:40-4:30 p.m. Evaluation and Summation
Lr. Lindbergh Sata

Wednesday, June 13

- 8:30 a.m. - Business Meeting
All Judges

Wet bar convention opens peacefully in Sitka

Anch. Daily News
June 8, 1979

By G. MICHAEL HARMON
Daily News correspondent

Alaska's conventioning lawyers suppressed their argumentative instinct Thursday in favor of elbow-bending and fraternal back-slapping.

The 1979 meeting of the Alaska Bar Association had been billed as a potentially explosive confrontation between bar leaders and dissident elements from Anchorage and Fairbanks dissatisfied with how their organization is being run.

But there was little evidence of dissension Thursday as an estimated 120 lawyers from around the state flooded into this historic old waterfront town for the three-day convention.

In an opening speech to the convention, outgoing president Kenneth Jervi did not allude to complaints leveled against bar leaders in The Daily News Tuesday by dissident members Lloyd Hoppner of Fairbanks and Ken Jensen of Anchorage, but nobody expected he would.

If a confrontation materializes, sources said it probably won't come before Saturday's business meeting during discussions on the organizations budget and the selection of new officers.

Highlighting Friday's schedule was a planned speech by Guy Martin, Assistant Secretary of Interior for Land and Water Management. Martin, a former commissioner of Natural Resources under Gov. Jay S. Hammond, was expected to tell on D-2 and Native Land issues. In a speech prepared for Friday, Martin said the Interior Department will convey more land to Alaska Native corporations in 1979 than in the seven previous years combined.

"The department will make conveyance decisions on more than 6.5 million acres to Native corporations in 1979, and will average between 6.5 and 7 million acres

regularly every year in the future," Martin said in his prepared remarks. Instead of fighting, the lawyers devoted most of their energies Thursday to buying each other drinks and attending the first of continuing education programs.

The opening round of education offerings on trial techniques was fairly well attended, but nevertheless took a back seat to the more established traditions of all conventions.

By early afternoon a high-stakes poker game was raging in one hospitality suit sponsored by a Fairbanks Process Serving and Legal Investigation Firm.

"These guys are so used to gambling in court with other people's money that I'm surprised they're willing to bet their own," said one kibbutzer.

Next door, the liquor flowed free of charge courtesy of the same Fairbanks firm.

"All this continuing education is new," said one Juneau lawyer. "It used to be all drinking."

One prominent and informed lawyer from Juneau said he had heard some private grumblings from Hoppner and a few other lawyers from Fairbanks, but contended that threats to try to oust

president elect Donna Willard of Anchorage did not appear to have widespread support.

Chief Justice Jay Rabinowitz of the Alaska Supreme Court also alluded to the "bloodletting" tendencies

of the Fairbanks bar in an aside during his speech on the state of the judiciary in Alaska.

Rabinowitz's address was the major event so far on the convention calendar.

Dissident lawyers try to gather support

By G. MICHAEL HARMON
Daily News Correspondent

SITKA — Dissident members of the Alaska Bar Association solicited support Friday for resolutions aimed at tightening the purse string on the lawyers' organization.

Leaders of the dissident faction also said they definitely planned to try to replace president elect Donna Willard of Anchorage.

A show-down over the proposed resolution and leadership posts in the 1200 member bar will come later today as the lawyers meet in a business session to climax their three-day convention.

Under bar rules, the dissidents must collect 35 signatures on their proposed resolutions before they can offer them for a vote from the floor, and leaders of the faction spent much of Friday, trying to meet the mandate.

"Some of them might not make

it, but most of them probably will at least make it to the floor for a vote," said Mary Nordale of Fairbanks, one of the leading figures in an intramural fight over the policies and operations of the board which licenses and regulates all Alaska lawyers. The proposed resolutions center on board spending policies, the primary issue in the dispute.

The dissident faction has expressed anger over management of their mandatory dues of \$180 a year and decisions which resulted in a large deficit last year.

The money-related resolutions would:

- prohibit the expenditure of any bar funds unless the expenditures were included in a previously approved budget;

- ban the payment of flat per diem to traveling members of the bars board of governors, requiring

instead the submission of actual expenses backed up by receipts;

- bar the payment of any advance expense requests by members of the board of governors;

- prohibit spending funds for out-of-state travel unless authorized for disciplinary investigations.

The resolution on out-of-state travel appeared aimed directly at Willard who traditionally would be making a half dozen trips over the next year to various national meetings and conventions.

Another resolution pointed at Willard would prohibit any member of the board of governors from serving as executive director of the bar or assuming any duties of the executive director.

The Alaska Bar has gone through three executive directors in a little more than a year, to the chagrin of the dissidents, and Willard has been performing some

executive director tasks during the last couple of weeks in preparation for the convention.

Finally, the dissidents circulated another proposed resolution requiring that all meetings of the board of governors be tape recorded and the recording maintained as a public record for two years.

Ken Jensen of Anchorage, another leader of the dissident group, said he would press for convention passage for all the resolutions which collect the prerequisite signatures.

The dissident drive, however, appeared relatively disorganized and without widespread support. Jensen and Lloyd Hoppner of Fairbanks, another disgruntled member, spent much of their time in a poker game which continued early into the morning Friday and picked up again in the afternoon.

"I haven't heard much of any-

thing," said Stanley Fischer of Kodiak, a member of the bar's board of governors, "and I'm considered the dissident member of the board. There's probably going to be some fireworks but the campaign seems sort of disorganized."

For her part, Ms. Willard said she was "absolutely mystified" by the dissident drive.

"I assume that when the new slate of officers comes up at the business meeting there will be an effort to displace me," she said. "But since none of these people — and I don't think there's more than five involved — haven't had the courage to speak to me about anything, any effort by me to talk about their motives would be sheer speculation."

Ms. Willard also said she oppose all the resolutions.

For example, Ms. Willard said requiring the payment of actual travel expenses instead of the current flat per diem rate "would end up costing us more for travel."

On the issue of the resolution

prompted by last years reported \$28,000 deficit, Ms. Willard attributed the red ink to "bookkeeping technique."

Actually, she said, the spending involved came out of the bar's \$80,000 surplus and the lions share of expenditures were provided at last years convention, including about \$20,000 for a study of lawyer self insurance and \$8,000 to defend a lawsuit brought by dissidents trying to stop the bar from conducting its midwinter meetings in Hawaii.

On the issue of the troubled executive directors' position, Ms. Willard said she would go into all three cases at the business meeting.

REGISTRATION FORM

1979 Annual Meeting

ALASKA BAR ASSOCIATION

June 6 - 9, 1979

The Sheffield House of Sitka

Sitka, Alaska

IMPORTANT REGISTRATION INFORMATION: Because of the meal guarantee policy of the Sheffield House, all meals must be signed up for prior to the meeting. The registration deadline is June 1, 1979, and no meal tickets will be sold at the door during the convention.

(Please list the number of no charge functions you will be attending in order to help us with the membership count.)

Name: Margaret W. Berck, Esq.
Address: Alaska State Legislature, House Judiciary Committee
Pouch V, Juneau, Alaska 99811
City/Zip

Phone: 465-3882

XXXXXXXXXXXXX if accompanying you: Rochelle Plotnick
Associate:

Table with 3 columns: Description, Quantity, and Price. Rows include Registration Fee (\$75.00), Welcoming Cocktail party (N/C), Thursday luncheon (\$14.00), Thursday cocktail party (N/C), Friday luncheon (\$14.00), Friday buffet (No), Friday bus tour (No), Saturday luncheon (\$14.00), Saturday dinner dance (No), and TOTAL (\$117.00).

Please return to and make checks payable to the ALASKA BAR ASSOCIATION, P.O. Box 279, Anchorage, AK 99510.

Program
1979
Annual Meeting

ALASKA BAR
ASSOCIATION

June 6 - 9, 1979
Sheffield House
of Sitka

Sitka, Alaska

Pursuant to Article VIII, Section I, of the
By-Laws of the Alaska Bar Association, notice is
hereby given of the Association's Annual Meeting,
scheduled for June 6-9, 1979 at the Sheffield
House of Sitka, Sitka, Alaska.

/s/ Ronald L. Kull
Executive Director
Alaska Bar Association

Alaska Bar Association

Kenneth O. Jarvi, Anchorage
President

Donna C. Willard, Anchorage
President-Elect

Albert H. Branson, Anchorage
Vice President

Richard D. Savell, Fairbanks
Secretary

Ronald L. Kull, Anchorage
Executive Director

Stanley T. Fischer, Kodiak
Member of the Board

Karen L. Hunt, Anchorage
Member of the Board

Edward G. King, Ketchikan
Member of the Board

Jonathan H. Link, Fairbanks
Member of the Board

William B. Rozell, Juneau
Member of the Board

WELCOME TO SITKA!

Program Schedule

WEDNESDAY, JUNE 6 --

- 2:00 p.m. - Annual Meeting Registration Begins. Sheffield House Lobby.
- 6:00 p.m. - Welcoming Cocktail Party. New Archangel Room.

THURSDAY, JUNE 7 --

- 9:00 a.m. - Registration Continues. Sheffield House Lobby.
- 9:00 a.m. - Annual Meeting Begins. Pioneer Room.
- Opening Remarks by Kenneth O. Jarvi, President Alaska Bar Association.
- 9:15 a.m. - Professional Update Conference. Pioneer Room.
- Report on the 1979 Alaska Legislature. Norman C. Gorsuch, Esq. Juneau
- Recent Significant Court Decisions. Kenneth P. Jacobus, Esq. Anchorage
- The New Federal Bankruptcy Act. Hon. J. Douglas Williams, II Bankruptcy Judge Anchorage
Donna C. Willard, Esq. Anchorage
- Noon - No Host Cocktails. New Archangel Room.
- 12:30 p.m. - Luncheon. New Archangel Room.
"The State of the Judiciary"
Hon. Jay A. Rabinowitz
Chief Justice
Alaska Supreme Court
- Noon - Spouses Luncheon. Location to be Announced.
-
-

-
- 2:00 p.m. — Videntape CLE, Pioneer Room.
"How to Select or Upgrade Automatic Typing Equipment."
Bernard Stenrin, Esq.
- "The Nifty, Thrifty Fifty — Money Saving Ideas for the Law Office."
Jimmy Brill, Esq.

FRIDAY, JUNE 8 --

- 9:00 a.m. — Professional Update Conference Resumes. Pioneer Room.
- New Trends in Business and Commercial Law.
Wayne C. Booth, Esq.
Anchorage
Hoyt M. Cole, Esq.
Anchorage
Walter H. Garretson, Esq.
Anchorage
Steve C. Hillard, Esq.
Anchorage
 - New Trends in Tort Law.
Bernard P. Kelly, Esq.
Anchorage
 - The New Criminal Code.
Joseph D. Balfe, Esq.
District Attorney
Anchorage
William P. Bryson, Esq.
Anchorage
Rhonda Butterfield, Esq.
Fairbanks
Michael Rubenstein, Esq.
Anchorage
- Noon — No Host Cocktails. New Archangel Room.
- 12:30 p.m. — Luncheon. New Archangel Room.
"The Interior Department and Alaska"
Hon. Guy Martin
Assistant Secretary of the Interior for Land and Water
Washington, D.C.
-

-
- 2:00 p.m. — Videotape CLE. **Pioneer Room.**
"How to Increase Your Profits
and Reduce Your Secretarial
Costs by Using a Secretarial
Style Manual"
Leo Eisenstatt, Esq.
- "How to Increase Your Legal
Practice and Provide for Your
Old Age"
Jay Foonberg, Esq.
- 2:00 p.m. — Bus Tour of Sitka Begins. **Meet in Hotel
Lobby.**
- 4:30 p.m. — Annual Meeting of the Alaska Bar Founda-
tion. **Pioneer Room.**
- 6:00 p.m. — Cocktails and Boat Cruise of Silver Bay.

SATURDAY, JUNE 9 --

- 9:00 a.m. — Business Meeting of the Alaska Bar Associa-
tion. **Pioneer Room.**
— Report of the Committee on Errors and
Omissions Insurance.
Karen Hunt, Esq.
Anchorage
— Report on Mandatory Continuing Legal
Education.
Sandra K. Saville, Esq.
Anchorage
— Consideration of Resolutions.
- Noon — No Host Cocktails. **New Archangel Room.**
- 12:30 p.m. — Luncheon. **New Archangel Room.**
"A Lawyer-Reporter's View
of the News"
Bill Kurtis, Esq.
CBS News
Chicago
- 2:00 p.m. — Business Meeting Resumes. **Pioneer Room.**
- 5:00 p.m. — Business Meeting Adjourns.
- 6:00 p.m. — Cocktail Reception. **Centennial Building.**
- 7:00 pm. — Alaska Bar Association Dinner Dance.
Centennial Building.
Special Entertainment by the
Russian Dancers
-

NOTES

Rabinowitz - 6-7-79

Court of Appeals
struck

2 years to get out opinions
for both Civil & Criminal
cases in Supreme Court

delete sunset provision

a constitutional court

put a ceiling on \$
per conflict cases - 1500-~~5000~~
Supreme
Court

new rule of court

established a "Conflicts"
office - take out of
Court system
only 75% of appro. was
funded by the Leg.

Sitka

Wed. 6-6

went to cocktail party

Rabenuity -

Art Peterson

Carolyn Ford

Paul Shter - Judicial Committee
Jensen - AB office

Thurs. 6-7

Norm - Legislature

SB104 - Court of Appeals Bar
Bill

McKinon - up. corp. by way -
law club

Randolph's package
no-vault

except atty. from jury duty
judicial continuity

Superior Ct judge - Katz

* sunset review - analysis of X
continuing bar - (leg. staff)

Bar app - appeal procedure

Shelton - Supreme Court

reviewed the last

→ 228 opinions - ⁽⁷⁸⁾ May to ⁽⁷⁹⁾ May
(158 in '76)

reversals of Supreme Ct. decisions

Per curiam - more

Ct. of Appeals - Criminal & App
absorbing time of Court

37 Sentence appeals

@ 100 civil

@ 100 crim.
(18 Search & Seizure cases)

A/HO

final passage rule

atty fees rule

MALPRACTICE SURVEY OF
ALASKA BAR ASSOCIATION
MAY, 1979

In response to the information and Committee recommendations published in the May, 1979 Bar Rag, I think the following action should be taken by the Alaska Bar Association regarding provision or endorsement of malpractice insurance for the members:

- Endorse American Home (National Union Fire) Insurance Company as the Bar Sponsored malpractice coverage.
- Endorse INAX Insurance Company as the Bar Sponsored malpractice coverage with its loss prevention/loss control program.
- Bar Association set up a \$100,000 limit group liability fund and loss prevention/loss control program to cover members for malpractice claims in accordance with the Norman proposal of \$2500 deductible per claim, \$22,500 claims coverage and defense costs paid by the Association and \$75,000 claims coverage purchased as a group policy from a private insurance carrier for a total premium of \$700 per year paid by lawyers in full or part time private practice. The program to be mandatory and exclusive malpractice coverage for all such lawyers in Alaska as a condition on their license to practice law. This program is dependent upon securing an amendment to the Alaska Insurance Code exempting the Bar Association from the \$1,000,000 capitalization requirement, securing a change in the Alaska Bar Rules providing for mandatory participation in the program and mandatory claim reporting. The program is also contingent upon securing adequate excess insurance protection and obtaining a favorable antitrust opinion. The program is also contingent upon initiating both the loss prevention and loss control program.
- Other (please explain in detail.)

Results of this survey will be available at the Annual Business Meeting in Sitka on June 8 and 9, 1979.

My present practice is:

- Private, full or part time.
- Employed full time by governmental entity or as in-house corporate counsel.
- Employed full time in a judicial, standing master, hearing officer, and/or administrative capacity within a court system.

SURVEY RESULTS

Program	Private Practitioners (79)	Crt. System (6)	Gov. or In House (13)	Unknown (6)
American Home	7	0	1	0
INAX	43	0	9	4
Self-Insurance	21	6	2	2
Other	8	0	1	0

RESOLUTION NO. 4

BE IT RESOLVED, that the Alaska Bar Association send a letter to President Carter and Attorney General Griffin Bell urging the appointment of a qualified Alaskan to fill one of the vacancies on the Ninth Circuit Court of Appeals.

Danessa A. Sawelle

Susan A. Vaillancourt
Reginald J. Chappell, Esq.

W.H. Ju

M. Gregory Oakes

Stanley Hewitt

Paul Harkin

~~George J. Brewer~~

Virgil D. Lockhart
George J. Brewer

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INDEXED

passed