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though he has been pardoned by the Governor, for the pardon cannot restore the "good moral character" required. People v. George, 1900, 186 Ill. 122, 57 N.E. 804.

3. Review

Under rule, requiring certificate of character from committee on character and fitness, court would not review refusal of certificate after hearing on evidence produced. In re Frank, 1920, 293 Ill. 363, 127 N.E. 640.

§ 3. Repealed. 1939, July 13, Laws 1939, p. 1167, § 1

Historical Note

The repealed section was derived from Act 1874, March 28, R.S.1874, p. 169, § 3, and related to the admission without examination of persons admitted by courts of record within the United States. The subject matter is now covered by the Supreme Court Rule relating to admission to the Bar, Practice, ch. 110, § 101.58.

Prior laws, see R.L.1833, p. 101, § 8; R.S.1845, p. 74, § 10.

Saving clause. Section 2 of the repealing Act of 1939 contained a saving clause as follows: "The repeal of the acts mentioned in Section 1 hereof shall not affect suits pending or rights existing at the time this Act takes effect; nor shall such repeal impair, avoid or affect any grant or conveyance made or right acquired or cause of action now existing under any such act or amendment thereto; nor shall this Act affect or impair the validity of any bonds or other obligations issued or sold and constituting the valid obligations of the issuing authority at the time this Act take effect; nor shall any repeal of any validating act hereunder be construed as avoiding the effect of such validation; nor shall any act herein repealed be construed to repeal any act or part thereof embracing the same or similar subject matter as the Act repealed."

§ 4. Oath

Every person admitted to practice as an attorney and counsellor at law shall, before his name is entered upon the roll to be kept as hereinafter provided, take and subscribe an oath, substantially in the following form:

I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of attorney and counselor at law to the best of my ability. 1874, March 28, R.S.1874, p. 169, § 4.

Historical Note

See R.L.1833, p. 101, § 7; R.S.1845, p. 74, § 9.

Law Review Commentaries

Early proposal for integration of bar. C. B. Bird, 1914, 9 Ill.L.Rev. 175.

Loyalty tests for admission to the bar. Ralph S. Brown and John D. Fassett, 1953, 20 U. Chicago L.Rev. 480.

The Illinois bar and individual freedom. 1955, 50 N.W.L.Rev. 94.

Notes of Decisions

Library references

Attorney and client ⇐8.
C.J.S. Attorney and Client § 12.
I.L.P. Attorneys and Counselors § 12.

1. Construction and application

Oath to support the Constitution of the United States and the Constitution of the State of Illinois, imposed as condition precedent to admission to practice law, requires loyalty to the government, and inquiry aimed at determining loyalty of an applicant for admission to the bar is, therefore, relevant to determination of conditions for admittance fixed by statute and rules. In re Anastaplo, 1954, 3 Ill.2d 471, 121 N.E.2d 826, certiorari denied and appeal dismissed 75 S.Ct. 439, 348 U.S. 946, 99 L.Ed. 740, rehearing denied 75 S.Ct. 579, 349 U.S. 908, 99 L.Ed. 1240, 1243.

§ 5. Record of attorneys

It shall be the duty of the clerk of the supreme court, in each grand division, to make and keep a record, stating at the head thereof that the persons whose names are therein written have been regularly licensed and admitted to practice as attorneys and counselors at law within this state, and that they have duly taken the oath of office as prescribed by law, which shall be certified and indorsed on the said license. 1874, March 28, R.S.1874, p. 169, § 5.

Historical Note

See R.L.1833, p. 100, § 3; R.S.1845, p. 73, § 3.

Law Review Commentaries

Admission to bar in Illinois. 1937, 2 John Marshall L.Q. 630.

Notes of Decisions

In general 1
Entry nunc pro tunc 2

Library references

Attorney and Client ⇐2.
C.J.S. Attorney and Client § 5.
I.L.P. Attorneys and Counselors § 13.

1. In general

Under this section, enrollment of name of attorney on roll of attorneys is required as proof of right to engage in practice of law. People ex rel. Chicago Bar Ass'n v. Novotny, 1944, 386 Ill. 536, 54 N.E.2d 536, certiorari denied 65 S.Ct. 71, 323 U.S. 734, 89 L.Ed. 588.

Objection taken on appeal that attorney who entered appearance for defendant without authority was not an attorney at law for want of enrollment in Supreme Court could not avail anything where it did not appear of record in the case that such was the fact, since party could not be allowed to treat roll of attorneys in Supreme Court as part of record without incorporating it by his bill of exceptions. Lyon v. Bollvin, 1845, 7 Ill. 629.

2. Entry nunc pro tunc

Where attorney obtained license in September, 1835, and was sworn as an attorney, March 20, 1837, but name was omitted to be enrolled by clerk until October 6, 1840, if attorney had incurred any liability by practicing as attorney and receiving fees before his name was enrolled, or if he sought to recover for services performed as attorney before his name was entered on the roll, Supreme Court could not aid him by permitting clerk to make entry nunc pro tunc. In re Fellows, 1840, 3 Ill. 369, 2 Scam. 369.

§ 6. Name enrolled—Striking from roll—Suspension

No person, whose name is not on the said roll, with the day and year when the same was written thereon, shall be suffered or admitted to practice as an attorney or counselor at law in any court of record within this state, and the justices of the supreme court, in open court, shall have power at their discretion to strike the name of any attorney or counselor at law from the roll for mal-conduct in his office; and any judge of a Circuit Court, or of the Superior Court of Cook county, shall, for like cause, have power to suspend any attorney or counselor at law from practice in the court over which he presides, during such time as he may deem proper, subject to the right to have such order set aside by the Supreme Court upon appeal. 1874, March 28, R.S.1874, p. 169, § 6.

Historical Note

See R.L.1833, p. 100, § 4; R.S.1845, p. 73, § 4.

Cross References

Barratry, see section 21 of this chapter.

Maintenance, see section 22 of this chapter.

Proceeding to strike attorney's name from roll, Supreme Court Rule, see Practice, ch. 110, § 101.59.

Soliciting of legal business, prohibition, see section 15 of this chapter.

Law Review Commentaries

Attorney disciplinary proceedings. 1961 Law Forum 307.

Complaints against attorneys. John L. Fogle, 1928, 12 Chicago Bar Rec. 124; John L. Fogle, 1931, 15 Chicago Bar Rec. 21.

Disbarment for excessive charges. 1912, 7 Ill.L.Rev. 324.

Disbarment of a judge. 1943, 10 U. Chicago L.Rev. 354.

Ethics of furnishing statements and information to the press. 1908, 2 Ill. L.Rev. 398.

Illinois disbarment proceeding. 1931, 26 Ill.L.Rev. 457.

Malicious prosecution in filing complaint against attorney with grievance committee. 1956, 34 Chicago-Kent L. Rev. 324.

Power to discipline judges for misconduct in office. 1937, 32 Ill.L.Rev. 115.

Problems of a committee on grievances. Stephen Love, 1933, 28 Ill.L.Rev. 63.

Professional discipline in Chicago. Charles P. Megan, 1935, 17 Chicago Bar Rec. 5.

Propriety of disclosure of attorney's name in client's publicity. 1953, 54 N. W.L.Rev. 111.

Survey of Illinois law 1955-1956 with reference to civil practice and procedure. 1956, 35 Chicago-Kent L.Rev. 16.

Notes of Decisions

§ 7. Refusal to pay over money collected—Striking from roll

In all cases when an attorney of any court in this state, or solicitor in chancery, shall have received, or may hereafter receive, in his said office of attorney or solicitor, in the course of collection or settlement of any claim left with him for collection or settlement, any money or other property belonging to any client, and shall, upon demand made, and a tender of his reasonable fees and expenses, refuse or neglect to pay over or deliver the same to the said client, or to any person duly authorized to receive the same, it shall be lawful for any person interested, to apply to the supreme court of this state for a rule upon the said attorney or solicitor, to show cause, at a time to be fixed by the said court, why the name of the said attorney or solicitor should not be stricken from the roll, a copy of which rule shall be duly served upon said attorney or solicitor at least two days previous to the day upon which said rule shall be made returnable; and if, upon the return of said rule, it shall be made to appear to the said court that such attorney or solicitor has improperly refused or neglected to pay over or deliver said money or property so demanded as aforesaid, it shall be the duty of the said court to direct that the name of the said attorney or solicitor be stricken from the roll of attorneys in said court. 1874, March 28, R.S.1874, p. 169, § 7.

Historical Note

See R.L.1833, p. 100, § 5; R.S.1845, p. 73, § 5.

Cross References

Proceeding to strike attorney's name from roll, Supreme Court Rule, see Practice, ch. 110, § 101.50.

Notes of Decisions

Library references

Attorney and Client ⇐44(2).
C.J.S. Attorney and Client § 23.
I.L.P. Attorneys and Counselors § 36.

1. Construction and application

Attorney's fraudulent conversion of his clients' funds involves moral turpitude and warrants disbarment. In re Ashbach, Sup.1955, 150 N.E.2d 119.

Relator in disbarment proceedings need not concern himself about attorney's alleged retention of client's moneys where client himself was not complaining and it did not appear but that money had been theretofore paid. People v. Allison, 1873, 68 Ill. 151.

In the case of People v. Palmer, 1871, 61 Ill. 255, the court construed the words "any person interested" appearing in this section to include not only creditors of the attorney but members of the legal profession and other persons who

have an interest in the purity o
who sustain such important rela
the public.

2. Trust relationship

Attorney receiving money fo
should pay it over immediately.
prevented, should regard money
fund, and under no circumstance
he appropriate it. People v. S
1930, 341 Ill. 340, 173 N.E. 398.

Funds collected or received b
torney for his clients are trus
and it is attorney's duty imm
to pay funds over to client, unle
is some legal reason for not d
People v. Tracey, 1925, 314 Ill.
N.E. 665.

3. Retention or misappropri
unds

An attorney who receives
which belongs to a client shou
over to him immediately. If
or condition prevents its imm
mittance, the attorney shou
the money as a trust fund.
no circumstances appropriate
own use. People v. Kwasni
296 Ill. 542, 130 N.E. 344; P
Chicago Bar Ass'n v. Simmo
Ill. 340, 173 N.E. 398.

Attorney's diversion of
to his own use warranted
In re Ahern, 1962, 26 Ill.2d
2d 869.

An attorney guilty of w
version of a client's funds
disciplinary action. In re
1962, 182 N.E.2d 740.

Wrongful conversion of
torney's hands for specific
volves moral turpitude and
to disciplinary action. In r
Sup.1962, 182 N.E.2d 651.

The conversion by an a
clients' money amounts to
pitude" sufficient to merit
ment. In re Koptik, 1950,
92 N.E.2d 462.

The wrongful conversio
torney of funds placed in
a client is a violation of h
ficient to warrant disbar
Roth, 1917, 398 Ill. 131, 75

An attorney should hav
client and accounted to h
for money collected on c
but failure to do so did
"moral turpitude" warra
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of omission" rather than

Note 10

did not justify suspension of attorney from practice. In re Brumund, 1942, 381 Ill. 139, 44 N.E.2d 833.

Evidence showed that attorney converted to his own use money intrusted to him by client who had employed attorney to represent him in purchasing a first and second mortgage on certain realty, and attorney was disbarred. In re Lenox, 1939, 371 Ill. 505, 21 N.E.2d 721.

In disbarment proceeding based on charge that attorney converted to his own use money received from a client, it was not necessary to prove definitely what attorney did with money, and when it was shown that attorney disappeared from city without notifying client and without leaving any forwarding address and returned without money and without communicating with client, it was incumbent on attorney to offer evidence that he had not converted money to his own use. Id.

Attorney was disbarred under evidence showing concealment of collection of client's money. In re Casey, 1935, 359 Ill. 496, 195 N.E. 39.

In disbarment proceedings based on misappropriation of clients' money, attorney's failure to take receipts for payments could not be presumed where in other matters attorney took and gave receipts as matter of course. People ex rel. Chicago Bar Ass'n v. Pace, 1934, 354 Ill. 111, 188 N.E. 169.

Evidence of attorney's conversion of moneys of clients was sufficient to warrant disbarment. Id.

Evidence was sufficient to require disbarment of attorney for unprofessional conduct in misappropriating money, and otherwise deceiving clients. People v. Simmons, 1930, 341 Ill. 340, 173 N.E. 398.

If testimony is directly contradictory as to whether or not money collected by an attorney was turned over to his client, the decision must rest on the credibility and not upon the number of witnesses. People v. Mosely, 1917, 278 Ill. 377, 116 N.E. 122.

Evidence sustained finding that attorney had violated this section, by failing to pay over money collected for client. People v. Allen, 1879, 244 Ill. 393, 91 N.E. 463.

§ 8. Notice—Defense—Effect of striking from roll

Every attorney, before his name is stricken off the roll, shall receive a written notice from the clerk of the supreme court, stating distinctly the grounds of complaint, or the charges exhibited against him, and he shall, after such notice, be heard in his defense, and allowed reasonable time to collect and prepare testimony for his justification. And every attorney whose name shall, at any time, be stricken from the roll by order of the court in manner aforesaid, shall be considered as though his name had never been written thereon, until such time as the said justices, in open court, shall authorize him to sign or subscribe the same. 1874, March 28, R.S.1874, p. 169, § 8.

Historical Note

See R.S.1845, p. 73, § 6.

Notes of Decisions

Defenses 3
Hearing 4
Information 1
Service of notice 2

Library references

Attorney and Client ⊂=46, 48, 60.
C.J.S. Attorney and Client §§ 25, 27, 40.
I.L.P. Attorneys and Counselors §§ 152, 154, 161.

1. Information

Attorney could only be tried in disbarment proceeding on charges con-

tained in information. People ex rel. Noyes v. Allison, 1873, 68 Ill. 151; People v. Matthews, 1905, 217 Ill. 94, 75 N.E. 444; People v. McCaskrin, 1927, 325 Ill. 149, 156 N.E. 328.

Under this section charge must give time and place and allege acts of misconduct with reasonable certainty, and proof of acts not charged will not justify disbarment where those alleged are not proven. People ex rel. Deneen v. Matthews, 1905, 217 Ill. 94, 75 N.E. 444.

Const.1870, art. 6, § 33, providing that all prosecutions should be carried on in the name and by authority of the people of the state of Illinois, and conclude "against the peace and dignity of the same" did not apply to summary proceedings to strike an attorney from the roll. Moutray v. People, 1896, 162 Ill. 194, 44 N.E. 496.

Specification in information that attorney took legal papers belonging to files of circuit court of certain county held too indefinite since no time was stated and even title of case was not given. People ex rel. Noyes v. Allison, 1873, 68 Ill. 151.

2. Service of notice

Service of notice of complaint in disbarment proceedings on counsel of respondent attorney instead of on respondent attorney held not to deprive committee on grievances of Chicago Bar Association as commissioners of Supreme Court of jurisdiction where counsel on whom notice was served represented respondent attorney in other complaints filed in same proceedings and was of record in instant proceedings in Supreme Court. In re Mack, 1935, 360 Ill. 343, 196 N.E. 197.

3. Defenses

See, also, Notes of Decisions under sections 6 and 7 of this chapter.

Attorney's acquittal does not automatically bar disciplinary proceeding; overruling People ex rel. Deneen v. John, 1905, 212 Ill. 615, 72 N.E. 789. In re Browning, 1962, 23 Ill.2d 483, 179 N.E.2d 14.

In disbarment proceeding, respondent could not invoke technicalities to combat charge against his professional integrity, where facts showed that notwithstanding a technical defense his conduct was ethically or morally without support. In re Lenox, 1939, 371 Ill. 505, 21 N.E.2d 721.

Satisfactory settlement with clients did not preclude inquiry into attorney's acts in connection therewith and was no defense to disbarment proceeding. People v. Chamberlin, 1909, 242 Ill. 260, 89 N.E. 994.

Youth and inexperience of attorney was no defense to proceeding for disbarment for fraudulent conspiracy to extort money. People v. Macauley, 1907, 230 Ill. 208, 82 N.E. 612, 120 Am.St.Rep. 287.

Unless circumstances would otherwise cause injustice, court will not establish limitation of disbarment proceeding by analogy to statute. People v. Hooper, 1906, 218 Ill. 313, 75 N.E. 896.

Acquittal of attorney indicted for crime bars disbarment proceedings based on crime charged. People v. John, 1905, 212 Ill. 615, 72 N.E. 789. Overruled; see In re Browning, 1962, 23 Ill.2d 483, 179 N.E.2d 14.

4. Hearing

Hearing in disbarment suit, being judicial, must be governed by the same rules which govern other trials of questions of fact, and the evidence on either side must be such as is legally competent to maintain the issue, and the evidence must be taken according to the rules of the common law. People ex rel. Chicago Bar Ass'n v. Amos, 1910, 246 Ill. 299, 92 N.E. 857, 138 Am.St.Rep. 239.

§ 9. Arrest—Privilege

All attorneys and counselors at law, judges, clerks and sheriffs, and all other officers of the several courts within this state, shall be liable to be arrested and held to bail, and shall be subject to the same legal process, and may in all respects be prosecuted and proceeded against in the same courts and in the same manner as other persons are, any law, usage or custom to the contrary notwithstanding: Provided, nev-

ertheless, said judges, counselors or attorneys, clerks, sheriffs and other officers of said courts, shall be privileged from arrest while attending courts, and whilst going to and returning from court. 1874, March 28, R.S.1874, p. 169, § 9.

Historical Note

See R.L.1833, p. 100, § 5; R.S.1845, p. 74, § 7.

Law Review Commentaries

Arrest to arraignment. Warren J. Carey, 1958, 47 Ill.Bar J. 211.

Notes of Decisions

False imprisonment 3
Plea of privilege 2
Privilege in general 1
Waiver of privilege 4

Library references

Arrest ⇐59, 60.
C.J.S. Arrest § 2 et seq.
I.L.P. Arrest § 3.

1. Privilege in general

Attorney's only remedy where he was arrested while returning from court was to apply to court for his discharge from arrest. Bennett v. Ahrens, 1932, C.C.A.1932, 57 F.2d 948.

Resident attorney may be served with summons in civil action or suit while in attendance upon courts, and attorney from another state has no greater privilege. Robbins v. Lincoln, C.C.1886, 27 F. 342.

Attorneys are privileged from arrest while attending court and while going to and returning from court but they are not immune from service of civil process. Jones v. Jones, 1963, 40 Ill.App.2d 217, 189 N.E.2d 33.

2. Plea of privilege

A plea of privilege is dilatory and will come too late unless interposed at first opportunity. Wilson v. Nettleton, 1850, 12 Ill. 61.

3. False imprisonment

That person arrested was exempt from arrest as attorney returning from court did not render arresting officers, who acted pursuant to valid warrant, liable for false imprisonment, notwithstanding claim that officers acted maliciously. Bennett v. Ahrens, C.C.A.1932, 57 F.2d 948.

4. Waiver of privilege

Attorney's privilege of exemption from arrest while returning from court may be waived, and arrest under such circumstances is voidable only. Bennett v. Ahrens, C.C.A.1932, 57 F.2d 948.

§ 10. Persons prohibited to practice as attorney

No person who holds a commission as a justice of the Supreme Court of the State of Illinois or as a judge of any court of record in this State shall be permitted to practice as an attorney or counsellor at law in the court in which he is commissioned or appointed, nor shall any judge of any county or probate court be permitted to practice in the court of which he is commissioned or appointed, and it shall be unlawful for any county judge, probate judge, county or probate clerk, or deputy county or probate clerk to make accounts currents or reports for any executor, administrator, guardian or conservator, in which said court shall have to act on judicially, nor shall any coroner, sheriff or deputy sheriff be permitted to practice as aforesaid in the county in which he

is commissioned or appointed, nor shall any clerk or deputy clerk of a court of record be permitted to practice as an attorney or counsellor at law in the court in which he is such clerk or deputy clerk, and no person shall be permitted or suffered to enter his name on the roll or record, to be kept as aforesaid, by the clerk of the Supreme Court, or do any official act appertaining to the office of an attorney or counsellor at law, until he hath taken the oath hereinbefore required; and the person administering such oath shall certify the same on the license, which certificate shall be a sufficient voucher to the clerk of the Supreme Court to enter or insert, or permit to be entered or inserted, on the roll of attorneys or counsellors at law, the name of the person of whom such certificate is made. 1874, March 28, R.S.1874, p. 169, § 10; 1895, June 17, Laws 1895, p. 79, § 1.

Historical Note

See R.L.1833, p. 401, § 6; R.S.1845, p. 74, § 8.

Prior to its amendment by the Act of 1895, this section provided as follows: "No person who holds a commission as a justice of the supreme court, or as judge of any court of record, shall be permitted to practice as an attorney or counselor at law in the court in which he presides; nor shall any coroner, sheriff, deputy sheriff, jailer or constable be permitted to practice as aforesaid in the county in which he is commissioned or appointed; nor shall any clerk or deputy clerk of [a court of] record be permitted to practice as an attorney or counselor at law in the court of which he is clerk or deputy clerk; and no person shall be permitted or suffered to enter his name on the roll or record, to be kept as aforesaid, by the clerk of the supreme court, or do any official act appertaining to the office of any attorney or counselor at law, until he hath taken the oath hereinbefore required; and the person administering such oath shall certify the same on the license; which certificate shall be a sufficient voucher to the clerk of the supreme court to enter or insert, or permit to be entered or inserted, on the roll of attorneys and counselors at law, the name of the person of whom such certificate is made."

Cross References

Corporation, practice as attorney, see Corporations, ch. 32, §§ 411–415.
County or probate judge, practice of law, see Courts, ch. 37, §§ 320, 327.
Registrar of land titles, practice of law, see Conveyances, ch. 30, § 48.
Sheriffs and deputies, appearance as attorneys, see Sheriffs, ch. 125, § 21.

Law Review Commentaries

Disbarment for practicing law while a judge. 1931, 25 Ill.L.Rev. 569.

Tax accountant enjoined from practicing law. 1942, 23 Chicago Bar Rec. 119.

Notes of Decisions

Judges as practitioners 1
Recovery of fee 2

Library references

Attorney and Client ⇐4.
C.J.S. Attorney and Client §§ 7, 8.
I.L.P. Attorneys and Counselors § 12.

1. Judges as practitioners

Practice of law by attorneys during tenure as county judges, in or out of court, directly or indirectly, was incompatible with judicial responsibilities and duties, and was contrary to public policy, but prohibition against such practice would not become effective until

December 3, 1962, the commencement of terms of office of county judges elected at next election, and attorney was not disqualified from representing plaintiffs in pending action, although he was also a county judge. Bassi v. Langloss, 1961, 22 Ill.2d 190, 174 N.E.2d 682, affirmed as to costs on remand 23 Ill.App.2d 148, 177 N.E.2d 10.

It is matter of common knowledge that county judges, particularly those in smaller counties, have long practiced in courts other than those in which they preside. Id.

Under this section, prohibiting judge of any court of record from practicing as an attorney in the court in which he is commissioned or appointed, prohibition, as applied to circuit judge, is not restricted to circuit from which judge was elected, and judge of the circuit court of Cook County was disqualified from acting as attorney in tax matter prosecuted in circuit court of Sangamon County. Schnackenberg v. Towle, 1955, 4 Ill.2d 561, 123 N.E.2d 817, certiorari denied 75 S.Ct. 785, 349 U.S. 939, 99 L.Ed. 1267.

Under this section a probate judge could not act as counsel in a suit in the Circuit Court to set aside a will which had been probated before him. Evans v. Funk, 1894, 151 Ill. 650, 38 N.E. 230.

A county judge was not necessarily disqualified from practicing as an attorney in the County Court of another county, even though he had presided in that court in particular cases at the request of the judge of such other county. O'Hare v. Chicago, M. & N. R. Co., 1891, 139 Ill. 151, 28 N.E. 923.

Supreme Court judges may act as attorneys in U. S. Courts. Town of Bruce v. Dickey, 1886, 116 Ill. 527, 6 N.E. 435.

Prohibition of statute against judges practicing law applied only to cases actually pending and tried in the court over which he presided, insofar as relating to county and probate judges when the causes they tried in other courts had no connection with the business or causes pending in their own courts. Evans v. Funk, 1891, 38 Ill.App. 441, affirmed 151 Ill. 650, 38 N.E. 230; however, it was held that a probate judge could not, while an estate was pending in his court and when settlement was temporarily suspended by the contest of will, lay aside his character as a judge in the cause and follow the case to another court and there become a partisan attorney for some interest against some other interest involved in the common estate, and after that contest was ended, and the case went back to his own court for final administration, again assume the impartial and high duties of a judge and settle conflicting interest in the case where he served some of the parties as an attorney, as against the interest of the others.

2. Recovery of fee

Where judge serves as attorney, in violation of this section his client may recover amount paid him. Evans v. Funk, 1894, 151 Ill. 650, 38 N.E. 230.

§ 11. Prosecution or defense of party's own suits—Practicing attorneys

Plaintiffs shall have the liberty of prosecuting, and defendants of defending in their proper persons, and nothing herein contained shall be so construed as to affect any person or persons heretofore admitted to the degree of an attorney or counselor at law, by the laws of this state, so as to subject him to further examination, or make it necessary for him to renew his license. 1874, March 28, R.S.1874, p. 169, § 11.

Historical Note

See R.L.1833, p. 102, § 10; R.S.1845, p. 75, § 12.

Notes of Decisions

Library references

Attorney and Client ⟸11.
C.J.S. Attorney and Client § 16.
I.L.P. Attorneys and Counselors § 15.

1. Construction and application

Appearance pro se, practice of law, see Notes of Decisions under section 1 of this chapter.

A Circuit Court rule providi
dismissal of appeal where name
torney for party was not ente
judge's docket was held to viola
statute in the case of Gregson v.
1877, 85 Ill. 478, wherein the cour
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§ 12. Attorneys resid

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may be admitted to practice
March 28, R.S.1874, p. 169, §

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See R.L.1833, p. 105, § 11; R.S.18

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Admission of attorney licensed
110, § 101.58.

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Library references

Attorney and Client ⟸4.
C.J.S. Attorney and Client §§ 7
I.L.P. Attorneys and Counselors

1. Construction and application

Agreement between attorney
client for rendition of legal serv

§ 13. Attorney' fees

Whenever a mechanic, artis
shall have cause to bring suit
owing according to the terms
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or she has brought suit is ju
been made in writing at least
not exceeding the amount so
duty of the court before which

A Circuit Court rule providing for dismissal of appeal where name of attorney for party was not entered on judge's docket was held to violate this statute in the case of Gregson v. Allen, 1877, 85 Ill. 478, wherein the court said: "Although defendant was in court, ready for trial, and demanding to be permitted to try his own cause the court denied him that privilege, and dismissed his appeal. That was error. Under our statute, either plaintiff or defendant in any suit has the liberty guaranteed to him to prosecute or defend for himself, in his proper person. It is a statutory right, of which the court cannot arbitrarily debar him. No doubt, courts may make all such rules for the orderly disposition of business before them as may be deemed expedient, consistent with law; but, as this court has had occasion, before, to declare, all such rules must be reasonable. The rule under which defendant's appeal was dismissed, was in contravention with the statute. The effect was to deprive him of the right, secured by law, to defend any action against him, in his proper person, and in that respect the rule was inconsistent with law."

§ 12. Attorneys residing in other states

When any counselor or attorney at law, residing in any other state or territory, may desire to practice law in this state, such counselor or attorney shall be allowed to practice in the several courts of law and equity in this state upon the same terms and in the same manner that counselors and attorneys at law residing in this state now are or hereafter may be admitted to practice law in such other state or territory. 1874, March 28, R.S.1874, p. 169, § 12.

Historical Note

See R.L.1833, p. 108, § 11; R.S.1845, p. 75, § 13.

Cross References

Admission of attorney licensed in another state or country, see Practice, ch. 110, § 101.58.

Notes of Decisions

Library references

Attorney and Client ⇐4.
C.J.S. Attorney and Client §§ 7, 8.
I.L.P. Attorneys and Counselors § 12.

1. Constructio and application

Agreement between attorneys and client for rendition of legal services in Illinois was not illegal and void because one of the attorneys was a Missouri attorney and was not admitted to practice law in Illinois, since Missouri lawyers can practice in Illinois under this section. Mock v. Higgins, 1954, 3 Ill.2d 281, 121 N.E.2d 866.

§ 13. Attorney's fees in suits for wages

Whenever a mechanic, artisan, miner, laborer, or servant, or employee, shall have cause to bring suit for his or her wages earned and due, and owing according to the terms of the employment, and he or she shall establish by the decision of the court or jury that the amount for which he or she has brought suit is justly due and owing, and that a demand has been made in writing at least three days before suit is brought, for a sum not exceeding the amount so found due and owing, then it shall be the duty of the court before which the case shall be tried to allow to the plain-

tiff, when the foregoing facts appear, a reasonable attorney fee, in addition to the amount found due and owing for wages, and in justice court such attorney's fee shall not be less than $5.00, and in the County or Circuit Court, not less than $10.00, to be taxed as costs of suit. 1889, June 1, Laws 1889, p. 362, § 1.

Historical Note

Title of Act:

An Act providing for attorney's fees when mechanic, artisan, miner, laborer or servant sues for wages. Approved June 1, 1889. In force July 1. Laws 1889, p. 362.

Cross References

Attorney's fees in suits for wages brought in justices' courts, see Justices and Constables, ch. 79, § 58.

Notes of Decisions

Amount of fee 4
Constitutionality 1
Construction and application 2
Contracts, validity of 5
Demand 3
Validity 1

Library references

Master and Servant ⟨⟹80(18).
C.J.S. Master and Servant § 136.
I.L.P. Employment § 60.

1. Validity

This section, providing for taxing attorney's fees as costs in actions brought by servants for wages which they have previously demanded in writing, was not invalid as class legislation. Vogel v. Pekoc, 1896, 157 Ill. 339, 42 N.E. 386, 32 L.R.A. 491. In this case the court on additional opinion on denial of rehearing said: "The statute here in question interferes with no one's right to contract. It embraces a well defined class of cases and persons, not singled out, as is contended, wholly without reason, and arbitrarily; but upon grounds which may, we think, properly serve as a basis for valid legislative action • • •. If this law were to be held unconstitutional for the reason assigned, then many other acts long in force in this state, hitherto deemed to be salutary, and against which no constitutional objection has been heard, would certainly fall with it."

2. Construction and application

Traveling salesman is not a laborer or servant so as to come within the provisions of this section. Standard Fashion Co. v. Blake, 1894, 51 Ill.App. 233; Epps v. Epps, 1886, 17 Ill.App. 196; Epstein v. Webb, 1893, 44 Ill.App. 341.

Coal miner paid by the ton for coal mined, instead of by the day or hour for the time he worked, was nevertheless entitled to rights accorded by this section to wage earners. Walker v. O'Gara Coal Co., 1908, 140 Ill.App. 279; Hopkins v. O'Gara Coal Co., 1908, 140 Ill. App. 282.

This statute applies only to wage earners but it applies to all wage earners without discrimination. Manowsky v. Stephan, 1908, 233 Ill. 409, 84 N.E. 363.

All persons who bring actions for wages fall within the provisions of this section. Vogel v. Pekoc, 1896, 157 Ill. 339, 42 N.E. 386, 30 L.R.A. 491.

The word "employee" within this section must be held to comprehend and include all persons employed to render to another regular, continuous and exclusive services of the same general degree, kind and nature that are due from a "mechanic, artisan, miner, laborer or servant." Buren v. Mercury Press, Inc., 1935, 280 Ill.App. 217.

The word "employee" in this section was not used in its broadest sense in view of the fact that the word "employee" is preceded by the words "mechanic, artisan, miner, laborer, or servant." The use of those words in the statute preceding the word "employee" indicates that the word "employee" was used in a limited and restricted sense and was not intended to include all persons who were in the service or employment of other persons irrespective of the degree or nature of their service or employment. The word "employee"

is a word of larger import words "mechanic, artisan, borer or servant," which p When a g al word follows lar one, rule is to cons applicable to persons ejusdem Id.

Where plaintiff in suit to r leged balance of salary due fr fendant, was employed by the pursuant to a written agreem ing plaintiff to solicit printin for defendant, plaintiff held n to recover attorney's fees section as "mechanic, artisan, borer, or servant, or emplo withstanding employment on salary basis. Id.

Statute must be complied every particular to entitle to recover attorney's fees. Terhune, 1912, 161 Ill.App. 1

Person employed as a transi topographer was an employ this section and compensation under his contract of employ wages, although payable Goodridge v. Alton, 1908, 1 373, wherein the court in its stated that, "The word 'em the statute, we think, mus to comprehend and include employed to render to anoth continuous and exclusive ser same general degree, kind a that are due from a 'mechan miner, laborer or servant.'"

This section and Laws 1891 providing that it should be make deduction from wages, lawful money, checks or dra advanced without discount, such sums as may be deduct pital or relief fund for sick employees, are not irreconc are in pari materia and mu strued together, and in con gether the two sections, the allow such reasonable atto as it may deem proper, bu than $5 can be allowed in Court, and not less than County or Circuit Court, being a reasonable discretio exercised by the justice of th by the court, as the ca Leischke v. Miller, 1902, 100

This section does not apply brought to recover damage

Smith-Hurd Illinois Annotated Statutes

§ 14. Attorney's lien for fees—Enforcement

Attorneys at law shall have a lien upon all claims, demands and causes of action, including all claims for unliquidated damages, which may be placed in their hands by their clients for suit or collection, or upon which suit or action has been instituted, for the amount of any fee which may have been agreed upon by and between such attorneys and their clients, or, in the absence of such agreement, for a reasonable fee, for the services of such attorneys rendered or to be rendered for their clients on account of such suits, claims, demands or causes of action. To enforce such lien, such attorneys shall serve notice in writing, which service may be made by registered or certified mail, upon the party against whom their clients may have such suits, claims or causes of action, claiming such lien and stating therein the interest they have in such suits, claims, demands or causes of action, and such lien shall attach to any verdict, judgment or decree entered and to any money or property which may be recovered, on account of such suits, claims, demands or causes of action, from and after the time of service of the notice. On petition filed by such attorneys or their clients any court of competent jurisdiction shall, on not less than 5 days' notice to the adverse party, adjudicate the rights of the parties and enforce such lien in term time or vacation. 1909, June 16, Laws 1909, p. 97, § 1; 1927, June 30, Laws 1927, p. 186, § 1; 1957, July 6, Laws 1957, p. 1291, § 1.

Historical Note

The amendatory act of 1927, provided for service of notice by registered mail.

The 1957 amendment authorized service of notice by certified mail.

Title of Act:

An Act creating attorney's lien and for enforcement of same. Filed June 16, 1909. In force July 1, Laws 1909, p. 97.

Law Review Commentaries

Ambulance chasing in the Chicago area. 1953, 47 N.W.L.Rev. 895, 897.

Attorney's lien. 1912, 7 Ill.L.Rev. 252; 1956, 34 Chicago-Kent L.Rev. 151.

Attorney's lien for services to beneficiary barred by spendthrift clause. 1942, 9 U.Chicago L.Rev. 360.

Constitutional and other limitations on Illinois administrative agencies. Samuel Micon, 1946, 24 Chicago-Kent L.Rev. 137.

Contingent fee contract as partial assignment of claim. 1935, 2 U.Chicago L. Rev. 327.

Contract in consideration of services in recovering property wrongfully withheld. 1914, 9 Ill.L.Rev. 361.

Factors determining proper fee. Paul B. Sargent, 1955, 44 Ill.Bar J. 244.

Foreclosure of mortgage to cover attorney's fees after satisfaction of secured note. 1939, 17 Chicago-Kent L. Rev. 197.

Lawyers' fees. Frank E. Trobaugh, 1955, 43 Ill.Bar J. 410.

Low cost legal service. 1940, 21 Chicago Bar Rec. 274.

Personal service necessary to perfect attorney's lien. 1914, 9 Ill.L.Rev. 203.

Principal and agent, survey of Illinois law for the year 1948-1949. 1949, 28 Chicago-Kent L.Rev. 9.

Professional fees and charges. S. O. Smith, Jr., 1946, 35 Ill.Bar J. 73.

Security transactions, survey of Illinois law for the year 1943-1944. 1944, 23 Chicago-Kent L.Rev. 57.

cial department is retired under the provisions of section 5-162 because of having reached the age of seventy years, the person so retired may continue in the service of the court which appointed him as such messenger as an employee at the salary to which he was entitled at the date of his retirement, but no longer than his seventy-fifth birthday, unless such court, at its annual meeting next following the effective date of his retirement, or at any proper meeting of the judges thereof thereafter, votes that his employment shall terminate. The existing retirement rights of any person so continuing in the employment of any constituent court of the judicial department as of the date when he became seventy years of age shall not be affected by his continuance in the employ of such court in such capacity thereafter, but no additional rights or benefits shall accrue to the benefit or interest of any such person so continuing in such employment. No such person shall receive a retirement salary during the period of the continuance of his employment after his retirement. No provision of any statute dealing with examinations, certifications and appointments to and separations from the service shall apply to any person so continuing in the employment of any such court after his retirement as aforesaid. Immediately upon the retirement of such person the comptroller shall record him as an employee and continue to pay his salary as aforesaid until receipt of certification from the chief justice that his employment has been terminated or that he has reached the age of seventy-five years.

(1949, S. 3139d; 1959, P.A. 28, S. 96; February, 1965, P.A. 574, S. 38.)

See Secs. 5-136, 5-164(d).

Sec. 51-79. Duties of messengers of the supreme and superior courts. Each messenger, and each assistant messenger under the supervision of the messenger, shall guard and safely keep all exhibits committed to his charge by the presiding judge, counsel or court officers; shall obtain and attend to the proper return of such books, records, documents, files and works of reference, belonging in the office of the clerk of the court or in the library of the county bar, as may be required in the court upon which he is in attendance, and shall perform such other duties as the judges or such presiding judge prescribes. In addition thereto the messenger appointed at Norwich shall, under the direction of the law library committee of the law library association of New London county, perform such duties in caring for the library of said association as are assigned to him by said library committee; and the messenger appointed for New London shall perform such duties in caring for the library of the law library association of New London as are assigned to him by the library committee of said association.

(1949 Rev., S. 7712.)

CHAPTER 876

ATTORNEYS

Sec. 51-80. Admission. The superior court may admit and cause to be sworn as attorneys such persons as are qualified therefor, agreeably to the rules established by the judges of said court, and said judges may establish rules relative to the admission, qualifications, practice and removal of attorneys.

(1949 Rev., S. 7638.)

Employment of attorney as such does not authorize him to discharge plaintiff's claim. 21 C. 245. In suits by him for services, his professional standing and amount of business may be inquired into. 40 C. 97; 105 C. 444; 107 C. 383. A woman may be admitted as an attorney. 50 C. 131. Nature of office of attorney. 72 C. 244; 74 C. 700; 80 C. 147. Qualification and procedure for admission gener-

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ally. 79 C. 46. Source of court's authority for its rules. 88 C. 456. Power of court to remove, and proper causes therefor. 66 C. 585; 80 C. 140; 84 C. 602; 88 C. 447; 90 C. 440; 112 C. 269. Right to practice not a property right. 79 C. 55. Disbarment of attorney who is also judge of probate does not disqualify him as to latter office. 88 C. 447. Order for indefinite suspension is valid. 90 C. 441. Proper to vest in bar examining committee power to make decisions under rules of judges, including power to determine approved law schools. 116 C. 417. History of law with respect to admission of attorneys. 129 C. 52. Applicant may be admitted only when qualified in accordance with rules established by the judges; rules have force of statute. 132 C. 241. Legislative recognition of the inherent right of the superior court to promulgate rules for admission of attorneys. 145 C. 222. History of section reviewed. Id. Cited. 146 C. 556; 154 C. 129, 150. Can be construed only as a legislative recognition of the inherent power of the superior court. 148 C. 177. Questions of law arising upon proceedings for admission to the bar are properly presented in a petition to the court. Id. See note to section 51-88. Applicant, member of Maryland bar, admitted without examination although practice in Connecticut would be confined to one corporate client. 155 C. 186.

Cited. 20 CS 268. Terms of injunction in accordance with supreme court decision re practice of law by trust departments of banks. 21 CS 42. If an applicant seeks admittance to the bar without examination, he is not the victim of discrimination if strict compliance with the rule is insisted on. 22 CS 214. New York attorney not a member of Connecticut bar held not entitled to recover for legal services rendered in Connecticut. 23 CS 225. Cited. 34 CS 674, 677.

Legislature, by insertion of exception clause in section 1-19, presumed to intend to exclude from operation of "right to know" statutes exclusive power over admission to bar vested in superior court by this section. 4 Conn. Cir. Ct. 313, 321.

Sec. 51-81. Investigation of qualifications of applicants for admission to the bar. (a) For the purpose of investigating the moral qualifications or general fitness of any applicant for admission to the bar of the state, either upon motion or examination, each chairman of any standing committee on recommendations for admission to the bar, in any county, shall have power to compel the attendance and testimony before it, or any member thereof, by subpoena and capias issued by him or other competent authority, of any person who such chairman reasonably believes may have information useful to his committee in such investigation, at such time and place in the town wherein such investigation is being made as may be designated in such subpoena, and for such purpose any such chairman may compel the production before such committee, or any member thereof, by subpoena duces tecum, of any books, records or papers which such chairman reasonably believes may contain information useful to such committee in such investigation.

(b) No such person shall be excused from testifying or producing books, records or papers on the ground that such testimony or the production of such books, records or papers will tend to incriminate him, but such evidence shall not be used in any criminal proceedings against him.

(c) If any person disobeys any such subpoena or, having appeared in obedience thereto, refuses to answer any pertinent question put to him by such committee or any member thereof, such committee or such member may complain to the state's attorney of such county, who, upon being furnished with the necessary information, shall forthwith apply to the superior court, or to a judge thereof if said court is not in session, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before him and shall inquire as to the truth of the allegations contained in such application and, if he finds them to be true, shall commit such person to a community correctional center until he testifies, but not for a longer period than sixty days.

(d) Any such process may be directed to any proper officer and such officer shall serve the same as commanded therein.

(1949 Rev., S. 7639.)

Sec. 51-81a. Certificate of registration. Fee. Renewal. Section 51-81a is repealed.

(June, 1971, P.A. 8, S. 37; 1972, P.A. 223, S. 31.)

Sec. 51-81b. Occupational tax on attorneys. Any person who has been admitted as an attorney by the judges of the superior court, and who was engaged in the practice of law, including the performance of judicial duties, in the year preceding the year in which an occupational tax is due hereunder, shall annually on or before January fifteenth pay to the commissioner of revenue services a tax in the amount of one hundred fifty dollars. Upon failure of any such person to pay any sum due hereunder within thirty days of the due date thereof, the provisions of section 12-35 shall apply with respect to the enforcement of this section and the collection of such sum. The commissioner of revenue services shall notify the chief court administrator of the failure of any person to comply with the provisions of this section and the chief court administrator shall notify the judges of the superior court of such failure. Any individual required by the provisions of this section to file a return or to pay a tax hereunder who shall fail to file such return or to pay such tax when due shall be liable for a penalty of twenty-five dollars, which penalty shall be payable to, and recoverable by, the commissioner in the same manner as the tax imposed under this section. If any tax is not paid when due as provided in this section, there shall be added to the amount of the tax, in addition to any penalty hereunder, interest at the rate of one per cent per month or any fraction thereof from the date the tax became due until the same is paid. If the commissioner is satisfied beyond a reasonable doubt that the failure to file a return or to pay the tax was due to reasonable cause and was not intentional or due to neglect, he may abate or remit the whole or any part of any penalty under this section. This section shall not apply to any attorney whose name has been removed from the roll of attorneys maintained by the clerk of the superior court for the judicial district of Hartford-New Britain, or to any attorney who has retired from the practice of law, provided such attorney shall file written notice of such retirement with the clerk of the superior court for the judicial district of Hartford-New Britain, or, with respect to the tax due in any calendar year, to any attorney serving on active duty with the armed forces of the United States for more than six months in such year.

(1972, P.A. 223, S. 30; P.A. 76-436, S. 10a, 78, 681; P.A. 77-614, S. 139, 610; P.A. 78-280, S. 4, 5, 127.)
Cited. 168 C. 212.

Sec. 51-82. Admission to examination of attorneys admitted in other states. Section 51-82 is repealed.

(1957, P.A. 528; 1963, P.A. 642, S. 43.)
Held unconstitutional as an attempt by legislature to interfere in a judicial function. 148 C. 177.

Sec. 51-83. Examination of veterans for admission. Any person whose moral qualifications have been approved by the bar of the county in which he has made application for admission to the bar and has served in the armed forces of the United States and who graduated from an approved law school after January 1, 1937, may, at the discretion of the bar of the county in which the applicant resides, apply for two additional examinations for entrance to the bar in excess of the number otherwise permissible.

(1949, S. 3119d; 1957, P.A. 597.)

Sec. 51-84. Attorneys subject to rules. Attorneys admitted by the superior court shall be attorneys of all courts and shall be subject to the rules and orders of the courts before which they act, which may fine them for transgressing such rules and orders, not exceeding one hundred dollars for any offense, and may suspend or displace them for just cause.

(1949 Rev., S. 7642.)

Attorney cannot be compelled in one case to produce in evidence a paper left with him by a client in another case. 3 D. 499. Superior court alone has power to admit and to suspend or displace attorneys at law. 60 C. 12; 66 C. 587. Disregard of rulings and suggestions of judge justifies displacement or suspension. 88 C. 150. Discretion of court as to displacing or suspending attorney. 84 C. 602. Should not practice in court where he may act as judge; 72 C. 437; or try case in which he is material witness; 68 C. 201; 72 C. 437; 80 C. 531; 81 C. 350; unless case is his own; 85 C. 209; but adversary's counsel may call him as witness. 81 C. 344. Agreement to bear expense of action and receive one-half proceeds is against public policy. 77 C. 457; 84 C. 594; 107 C. 386. May try case before his brother as judge. 83 C. 180. To deceive court to secure admission of evidence is a contempt. 84 C. 60. May purchase judgment and sue thereon. 85 C. 260. Cited. 129 C. 53. When counsel may withdraw from case which is before court. 147 C. 337.

Sec. 51-85. Authority and powers of commissioners of the superior court. Each attorney-at-law admitted to practice within the state, while in good standing, shall be a commissioner of the superior court and, in such capacity, may, within the state, sign writs and subpoenas, take recognizances, administer oaths and take depositions and acknowledgments of deeds. Each such attorney may also issue subpoenas to compel the attendance of witnesses and subpoenas duces tecum in administrative proceedings. If, in any administrative proceeding, any person disobeys such subpoena or, having appeared in obedience thereto, refuses to answer any proper and pertinent question or refuses to produce any books, papers or documents pursuant thereto, application may be made to the superior court or any judge thereof for an order compelling obedience.

(1949 Rev., S. 7648; P.A. 77-386, S. 1, 2; P.A. 78-280, S. 80, 127.)

A woman may be appointed. 50 C. 136. The signing of a writ by a lawyer as a commissioner of the superior court is not a mere ministerial act. A writ of mandamus to compel the signing will not be granted. 142 C. 411. Cited. 162 C. 255. Cited. 171 C. 705, 723.

Sec. 51-86. Soliciting persons to institute actions for damages. No person who has not been admitted as an attorney in this state under the provisions of section 51-80 shall solicit, advise, request or induce any person to cause an action for damages to be instituted, from which action or from which person the person soliciting, advising, requesting or inducing the institution of such action may, by agreement or otherwise, directly or indirectly, receive any compensation from the person solicited to institute or prosecute such action or from his attorney, or in which action the compensation of any attorney for instituting or prosecuting the same, directly or indirectly, depends upon the amount of the recovery therein. Any person who violates any provision of this section shall be fined not more than one hundred dollars or imprisoned not more than six months or both.

(1949 Rev., S. 7640.)

What constitutes "ambulance chasing." 4 CS 90. A lawyer who abets the commission of the offense by knowingly accepting a case so solicited is equally as guilty. Id., 233.

Sec. 51-87. Solicitation of cases for attorneys. (a) Any person who (1) pays, remunerates or rewards any other person with something of value to solicit or obtain a cause of action or client for an attorney-at-law or (2) employs an agent, runner or other person to solicit or obtain a cause of action or a client for an attorney-at-law or (3) pays, remunerates or rewards any other person with something of value for soliciting or bringing a cause of action or a client to an attorney-at-law or (4) pays, remunerates or rewards with something of value a police officer, court officer, correctional institution officer or employee, a physician, any hospital attache or employee, an automobile repairman, tower or wrecker, funeral director or any other person who induces any person to seek the services of an attorney or (5) pays, remunerates or rewards any other person with something of value to induce him to bring a cause of action to, or to come to, an attorney or to seek his professional services shall be fined not more than one thousand dollars or imprisoned not more than three years or both. This subsection shall not apply to an attorney's engaging other or additional attorneys for professional assistance or to an attorney's referring a case to another attorney.

(b) Any person who knowingly receives or accepts any payment, remuneration or reward of value for referring or bringing a cause of action or prospective client to an attorney-at-law, or for inducing or influencing any other person to seek the professional advice or services of an attorney, shall be fined not more than one thousand dollars or imprisoned not more than three years or both. This subsection shall not apply to the referral by an attorney-at-law of causes of action or clients or other persons to another attorney-at-law.

(1957, P.A. 606, S. 1, 2.)

Sec. 51-88. Practice of law by persons not attorneys. No person who has not been admitted as an attorney under the provisions of section 51-80 shall practice law or appear as an attorney-at-law or as attorney and counselor-at-law for another, in any court of record in this state, or make it a business to practice law, or appear as an attorney and counselor-at-law for another in any such court, or make it a business to solicit employment for a lawyer, or hold himself out to the public as being entitled to practice law, or assume to be an attorney or counselor-at-law, or assume, use or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law, or counselor-at-law, or attorney or counselor or attorney and counselor or equivalent terms, in such manner as to convey the impression that he is a legal practitioner of law or in any manner advertise that he, either alone or together with any other person or persons, owns, conducts or maintains a law office, or office or place of business of any kind for the practice of law. Any person who violates any provision of this section shall be fined not more than two hundred and fifty dollars or imprisoned not more than two months or both. Any person who violates any provision of this section shall be deemed in contempt of court, and the superior court shall have jurisdiction in equity upon the petition of any member of the bar of this state in good standing or upon its own motion to restrain such violation. Nothing herein contained shall be construed as prohibiting a town clerk from preparing or drawing deeds, mortgages, releases, certificates of change of name and trade name certificates which are to be recorded or filed in the town clerk's office in the town in which such town clerk resides or as prohibiting any person from practicing law or pleading at the bar of any court of this state in his own cause.

(1949 Rev., S. 7638, 7641.)

See note to Sec. 51-80.

Giving of certificates as to validity of land titles is practice of law. 128 C. 325. To "practice law" meant to perform either in or out of court any acts commonly understood to be the practice of law. 145 C. 222. History of section reviewed. Id. Practice of law by trust departments of banks. 146 C. 556. Appearances at probate court hearings constitute the practice of law. Id. History discussed. 154 C. 129, 137-140. Section forbids one who has not passed the bar from practicing law in or out of court. Id., 140. Defendant was not giving "general information" but, rather, information directed toward a particular person and to a particular instrument; consequently he was practicing law. Id., 144. While it may be difficult to define "practice of law" and those who engage in border area activity might claim it is unconstitutionally ambiguous as to them, defendant could not so claim because his activity was well within area of "practice of law." Id., 148.

Drafting of wills is practice of law. 4 CS 438. Cited. 9 CS 94; 20 CS 256, id., 268. Town clerks are not allowed to render opinions with respect to validity of real estate titles. 9 CS 253. Terms of injunction in accordance with supreme court decision re practice of law by trust departments of banks. 21 CS 42. New York attorney not a member of Connecticut bar held not entitled to recover for legal services rendered in Connecticut. 23 CS 225. Cited. 34 CS 674, 677.

Not error to deny motion for new trial even if witness' testimony was false but it appears that result reached on new trial would not be different. 2 Conn. Cir. Ct. 257. Improper for defendant corporation to appear pro se through its president who was not an attorney. Id., 284.

Sec. 51-89. Sheriff or constable not to act as attorney in court. No sheriff, deputy sheriff or constable shall appear in court as attorney.

(1949 Rev., S. 7968.)

Sec. 51-89a. Complaint and hearing required for suspension or disbarment. The superior court shall not suspend or disbar any attorney-at-law admitted to practice

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in this state unless a written complaint has been made and a hearing held thereon as is provided by rule of court unless such complaint or hearing is waived by such attorney, notwithstanding that the alleged misconduct or alleged cause for such suspension or disbarment occured in the presence of the court.

(P.A. 77-194, S. 1, 2.)

Sec. 51-90. Grievance committees; appointment and duties. The judges of the superior court at their annual meeting in June shall appoint one or more grievance committees for each judicial district, each consisting of three members of the bar of such judicial district, engaged in practice, to remain in office until their successors are in like manner appointed, whose duty it shall be to inquire into, investigate and present to said court offenses not occurring in the actual presence of the court involving the character, integrity, professional standing and conduct of members of the bar residing or practicing in such judicial district, and to investigate and present to said court any person deemed in contempt of court under section 51-88. If a committee does not deem the offense under investigation by it to be sufficiently serious to present such person to the court, such committee may, in its discretion, reprimand such person or cause him to be reprimanded by a judge of the court either in open court or in chambers as such committee and such judge deem proper. Any vacancy in the membership of a grievance committee may be filled in the same manner as the original appointment. If any member of a grievance committee is disqualified or for any other reason unable to act in any matter, the presiding judge of the superior court in the county for which such committee was appointed may designate to act in such matter a member of the bar in the same judicial district or a member of a grievance committee from another judicial district.

(1949 Rev., S. 7643; February, 1965, P.A. 120; 1969, P.A. 33; P.A. 78-280, S. 81, 127.)

Of the functions of the grievance committee, right to present for offenses not exclusive. 84 C. 603; 88 C. 456. Grievance committee is an independent public body charged with performance of public duty; may appeal from dismissal of complaint against attorney. 112 C. 263.

Legislature contemplated impartial investigation. 4 CS 502. Cited. 7 CS 468. Action of grievance committee in reprimanding an attorney does not prevent the superior court from taking jurisdiction of the same complaint. 21 CS 363. Mailing of 9250 Christmas cards found obvious device to "drum up business" and conduct unbecoming lawyers. 22 CS 86.

Sec. 51-91. Grievance committees; witnesses; stenographer. Any person may be compelled, by subpoena signed by competent authority, to appear before a grievance committee to testify in relation to any matter deemed by the committee to be relevant to any inquiry or investigation by such committee, and also to produce before such committee, for examination, any books or papers which, in its judgment, may be relevant to such inquiry or investigation. Such committee, while engaged in the discharge of its duties, shall have the same authority over witnesses as is provided in section 51-35 and may commit for contempt for a period no longer than thirty days. Such committee may employ assistants, including an attorney-at-law, and employ a competent stenographer to make a report of the testimony of any witness, and may cause the same to be transcribed and furnished to the state's attorney for the judicial district. Such assistants, attorney and stenographer shall be allowed such compensation as such committee deems reasonable and such compensation shall be paid in the manner provided in section 51-92.

(1949 Rev., S. 7644; 1961, P.A. 517, S. 109; P.A. 78-280, S. 2, 127.)

Cited. 112 C. 265.
Cited. 4 CS 502.

Sec. 51-92. Grievance committees; fees and expenses. Each such grievance committee shall return to the clerk of the superior court for the judicial district

an account of all expenses incurred by it in the discharge of its duties, including fees of witnesses and officers, the reasonable charges of any person employed by it and the personal expenses of the committee or any member thereof, which account, if taxed and allowed by the court, shall be paid as are other court costs.

(1949 Rev., S. 7645; P.A. 78-280, S. 2, 127.)
Cited. 112 C. 265.
Cited. 7 CS 468.

Sec. 51-93. Reinstatement of attorneys. The superior court for any judicial district may, upon hearing, after written application and such notice as the court may prescribe, reinstate as an attorney-at-law any person resident in such judicial district who has been suspended or displaced or who has resigned.

(1949 Rev., S. 7646; P.A. 78-280, S. 2, 127.)
Discretion of court as to reinstatement. 90 C. 440.

Sec. 51-94. Evidence in proceedings to suspend or displace attorney-at-law. In any proceeding for the suspension, displacement or removal of an attorney-at-law or to investigate the character, integrity or professional standing of such attorney, evidence tending to show the general character, reputation and professional standing of such attorney shall be admissible.

(1949 Rev., S. 7647.)

CHAPTER 877

JUSTICES OF THE PEACE

Sec. 51-95. Qualifications and certification of justices of the peace. Each person nominated a justice of the peace shall take the official oath at any time on or before the first Monday of January succeeding his nomination or, if nominated to fill a vacancy, within ten days thereafter; provided, if such first Monday of January falls on a legal holiday, such oath shall be taken at any time on or before the first Tuesday of such January. Unless the official oath has been administered by the town clerk, the officer who administered it shall transmit a certificate of such fact to the clerk of the town wherein such justice was nominated. Each justice, after taking the official oath, shall furnish, in triplicate, upon forms prescribed and provided by the secretary of the state, furnished to such clerk by said secretary and delivered or sent by such clerk to each nominated justice of the peace within the town, his signature to such town clerk. Such town clerk shall transmit one of such completed forms forthwith to the clerk of the superior court for the county and one to the secretary of the state. Any justice so nominated in the judicial district of Waterbury shall so furnish his signature in triplicate to the town clerk of the town within which he was nominated who shall transmit one such completed form to the clerk of the superior court at New Haven or at Waterbury if he resides in New Haven county or to such clerk at Litchfield or Waterbury if he resides in Litchfield county and one to the secretary of the state. If any person fails to take such oath or to so furnish his signature in triplicate to the town clerk on or before the first Monday in January succeeding his nomination or the first Tuesday in January if the first Monday in January succeeding such nomination is a legal holiday, such office shall be deemed vacant. The town clerk of each town shall keep a record of the names of qualified justices of the peace. On or before the fifteenth day of January succeeding their nomination or,

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

February 21, 1980

TO: Members of the House Judiciary Committee

FROM: Charles H. Parr, Chairman

SUBJECT: Options for Bar Association Sunset Review

It appears to me that there are a number of options for the Committee in dealing with the Sunset Review of the Bar Association. I have listed these very sketchily and hope that they may serve as a framework for our discussions.

1 - Continue the existing situation in which the Supreme Court has final authority and delegates to the Bar Association the responsibility for admissions, discipline, and rule proposal.

2 - Same as No. 1 above except that no State funds will be made available to the Bar Association and it would be made clear to the Supreme Court that such funds should not be included in its budget.

3 - De-integrate the Bar Association, which would then become purely a private organization. Make the Supreme Court directly responsible for admissions and discipline.

4 - Establish a Board of Legal Practice similar to the existing boards for other professions. Make this board responsible for admissions and discipline. Under this option the Bar Association would be a private organization and would carry out any other functions it might choose.

5 - Do away with mandatory membership in the Bar Association, leaving other things as they are.

Fred - 6 - Extension for short time

CHP:vc

Alaska Court System
State of Alaska
303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 4, 1980

Representative Charles H. Parr
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:

You have asked that I comment on behalf of the Court System concerning the sunset legislation of the Alaska Bar Association currently pending before your committee.

I have conferred with the Supreme Court with regard to your request and they asked me to comment as follows.

The Court strongly supports continued existence of the Alaska Bar Association as an integrated bar. The Court further suggests that the Bar Association and the Legislative Audit Committee reach a reasonable accommodation of the current dispute.

The Court has not given me brief to comment further on the subject. I hope these comments will help the committee.

Cordially,

Arthur H. Snowden, II

Arthur H. Snowden, II
Administrative Director

AHS:cm

cc: Donna Willard, Esq.
President, Alaska Bar Association

Introduced: 1/26/79
Referred: Judiciary

IN THE HOUSE BY MCKINNON

HOUSE BILL NO. 85

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to bar examination review procedures; and amending Alaska Bar Rule 7, Section 1."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. Alaska Bar Rule 7, section 1 is amended to read:

SECTION 1. An applicant who has been denied an examination permit or who has been denied certification to the Supreme Court for admission to practice shall have the right within thirty days after notice of such denial to file with the Board a written verified statement of appeal. Failure timely to file an appeal statement shall constitute waiver of appeal rights. In his statement an applicant shall state all grounds upon which he intends to rely and may:

(a) object to the form of notice from which such appeal is taken on the ground that it is so indefinite or uncertain that he cannot reasonably prepare his statement;

(b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegation in the verified statement are found to be sufficient by the Board, a hearing shall be granted. A hearing shall be granted in all cases where the applicant requests it and the score of the applicant on the bar examination is within five points of the passing grade of the bar examination.

under current system Bd. of Bar. will only grant hearing where substantial issues raised. Rest of Info. currently available.

SAME language as Application of Peterson. established certain minimum guidelines.

"grades assigned thereto" → Bar Rule

The applicant shall be given access to his examination questions, his answers to those examination questions, and the model answers for the particular examination together with a representative sampling of the examination papers of other applicants who received overall passing and overall failing grades.

* Sec. 2. Section 1 of this Act amends the Rules of Court (Rule 7 of Part I of the Alaska Bar Rules).

~~Rule~~ Rule 4 of Part I

grades analyses

I. 5 points - how many individuals fit in that class.
Should period be made shorter.

II. other items ① multistate questions and answers
② relative weight given to various issues which one is supposed to discuss in essay answers

III. not want to limit the scope of discovery

Appellants are entitled to utilize all of the discovery procedures contemplated by the Alaska Rules of Civil Procedure.

Peterson didn't rule on the scope of discovery.

yet is Peterson abandoned by 1-4.5 BAR Rule to extent Bar Rules approved by Sup. Ct.

ignated by the code number of each, the maximum possible point value of each bar examination part or section and other information the committee or the board may deem relevant.

Section 4. The board shall determine the qualifications of each applicant upon the basis of the report of examination, the recommendations of the executive director, and such other matter it may consider pertinent under these rules. The board shall certify to the supreme court the results of the bar examination and its recommendations as to those applicants who are determined qualified for admission to the practice of law and who have complied with the provisions of Rule 6. Notice of the board's determination shall be provided in writing to each applicant. Notice to an applicant determined not qualified shall state the reason for such determination

Section 5.

Section 6. The passing grade of the bar examination shall be seventy percent of the highest possible grade. A scaled score, as determined by the National Conference of Bar Examiners, of 135 on the Multistate Bar Examination shall be the equivalent of seventy percent of the highest possible grade on that portion of the examination. (Amended by Supreme Court Order 247(I) effective April 1, 1976)

Section 7. An applicant who has taken the Multistate Bar Examination within one year prior to the bar examination as part of an examination required by a state, territory or the District of Columbia for admission to the practice of law may

HB 85

Norm Gorsuch > Reg. lobbyist for AK Bar Assn.

Chairman of Grading Committee.

BAR Records - 5 yrs - 1023 Applicants; 75% passed of # failed, 23 petitions 13 hearings granted

National Conference of Bar Examiners - AK statistics in range of most jurisdictions

- Calif. 58%

Mr. Helm, chairman of graders. 1971 been grading since. 12 lawyers on Committee 3 yr. terms

2 session > Calif. BAR > General law US
" Multistate bar exam
AK ESSAY

Multistate - results graded by machine.

Read answers to AK. Bar Exam.
2 graders to read every answer to family law question.
Before Begin - Sample analysis
review 5 answers from random - begin grading
scores compared.

Answers - graded by Ca graders.
Calif. 40 40 AK.
20 AK

---

70 or better - reccom. to pass
65 and 70 > have Ca. answers re-read.

40% obj | subjective/ 60%
30-35% pass 2nd time around

% assigned on basis of time used to answer the questions.

giving Ca. exam or multistate - before time of Helms.

48 - states use the multistate
60% = essay questions.

% that pass each element separate. generally fail in more than one portion of the exam.

highest in multistate
lowest = Ca. ESSAY
↳ AK a little better.

⇒ results in more people passing overall exams.
69.65 = fails

No indication when exam paper-answers - Returned what they did wrong.

Bart Rozell >
correlation on performance.

Rt of Appeal = absolute right hearing
gets those as a matter of rts - items in bill. He hasn't noticed grader's analyses.

if no fact question = no need for hearing.

Rt to Appeal to the Courts.

Hearings - rational basis for reviewing bar exams.

form given
why grader
using Exam given

these BAR
will fair
up.

error in question - graded -
everyone got to pass.
if got 84 got to keep that.

- Multistate Bar Exam -
Supreme Court -
Members could
review > strict.
review

this is
big contract

NBE

Why Ca. Section
AK. Section >
no one knows why
doing what doing.

How relevant is AK.
Decision - to real AK. Law.

D2
ANCS Act

their rules should be reviewed by themselves.

---

hearing should be granted.

Malone - how often does BAR Review its procedure ‖ validity of Admissions procedures.

---

atty. admitted to other jurisdictions -

Rule 7 just amended done in Sept.

essay scores - 65-70

Ca. Portions reread by one grader 2nd grader

Regulation -

one occassion did reread AK section. decided AK essay/answer not re-read.

#3 is the regulation.

Rule 7. Review.

Section 1. An applicant who has been denied an examination permit or who has been denied certification to the Supreme Court for admission to practice shall have the right within thirty days after notice of such denial to file with the Board a written verified statement of appeal. Failure timely to file an appeal statement shall constitute waiver of appeal rights. In his statement an applicant shall state all grounds upon which he intends to rely and may:

(a) object to the form of notice from which such appeal is taken on the ground that it is so indefinite or uncertain that he cannot reasonably prepare his statement;

(b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegation in the verified statement are found to be sufficient by the Board, a hearing shall be granted.

Section 2. In any appeal the applicant shall have the burden of proving the material facts upon which he relies.

Section 3. A master appointed by the President from among the active membership of the association shall preside at all hearings convened under this rule. The master shall hear the evidence without the Board unless the President shall order the hearing in the presence of the Board. No fewer than twenty days before the hearing the applicant shall be given notice of the date of the hearing, the identity of the master, and whether the hearing is to be before the master alone, or before the Board with the master. All notices shall be given by the Executive Director, as required by the master or the President.

Section 4. When the Board hears the case with the master, the master shall preside and rule on the admission of evidence. The hearing shall be administered as directed by the Board.

Section 5. A Board member or a master appointed under

this rule shall disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing. The applicant may request the disqualification of the master or of a Board member by filing an affidavit within ten days following the first notice of the hearing. The affidavit shall state with particularity why a fair and impartial hearing cannot be accorded by the person sought to be disqualified. Where the request concerns a Board member the issue shall be determined by the master. Notice of the determination shall be given applicant no fewer than 10 days before commencement of the hearing and such notice shall include the name of a new master if one is appointed. The time for notice fixed by Section 3 and by this Section shall not apply to notice concerning a master appointed to replace a disqualified master.

See New Sect. #6

Section 6. The hearing shall be electronically recorded with facilities provided by the Alaska Court System. Deposition testimony may be received as provided in the Alaska Rules of Civil Procedure. The record may be destroyed two years following the last date upon which administrative appeal rights may be available under the provisions of this rule.

Section 7. The applicant shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues, even if not covered in direct examination, to impeach any witness regardless of which party called him, and to rebut the evidence against him. The applicant may be called and examined as if under cross-examination whether or not he testifies on his own behalf. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient standing alone to support a finding unless it would be admissable over objection in civil actions. The rules of privilege shall be effective to the extent that they are required by civil rules to be recognized. Irrelevant and unduly repetitious evidence shall be excluded. The sworn testimony of a witness subpoenaed under these rules shall be deemed testimony received in a judicial proceeding. In any action for defamation arising out of such

sworn testimony the witness shall be entitled to the defense of privilege to the same extent available to witnesses in judicial proceedings within the State of Alaska.

Section 8. The master shall prepare in writing a proposed decision supported by findings of fact and conclusions of law.

Section 9. In cases in which a majority of the Board was not present during the evidentiary hearing, the master shall file the proposed decision with the Board and cause the entire record to be certified to the Board for decision. Copies of the proposed decision shall be served by the master on the applicant or his attorney of record and on the Executive Director. Within twenty days after service of the proposed decision, the applicant and the Executive Director may file exceptions and briefs and, upon request, may appear and present oral argument to the Board. Copies of exceptions and briefs, when filed, shall be served on the applicant or the Executive Director, as the case may be.

Section 10. The transcript of testimony and exhibits together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision by the Board and, upon payment of costs, shall be made available to the applicant.

Section 11. The Board may adopt the proposed findings, conclusions and decision of the master in whole or in part or reject it in its entirety and adopt its own findings of fact and conclusions of law and decision.

Section 12. The findings of fact, conclusions of law and decision of the Board shall be conclusive as to the matter alleged in applicant's statement of appeal unless an appeal to the Supreme Court shall be filed within thirty days following service upon applicant of the findings of fact, conclusions of law and decision in the manner provided by these rules. (Added by Supreme Court Order 161 effective immediately)

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 341

Amending Alaska Bar Rules 7 and 8, Relating to Admissions and Adding a New Section, 7.1.

IT IS ORDERED:

1. Sections 6, 7, 8, 9, 10, 11, and 12 of Rule 7, Alaska Bar Rules, are deleted and a new section 6 is added to read:

Section 6. Only the following materials shall be subject to production by the Alaska Bar Association in any proceedings held pursuant to this Rule:

(a) Where certification for admission to practice has been denied, the failing applicant has the right to inspect his examination books, the grades assigned thereto, the examination questions, the graders' analyses of the questions and a representative sampling of passing and failing answers to the bar examination at the office of the Alaska Bar Association or at such other place and such time or times as the Board may designate;

(b) Where an examination permit has been denied because of failure to meet residency requirements, the applicant has a right to inspect the minutes of any meeting of the Board of Governors at which his application has been discussed, together with a synopsis of the facts with respect to any other person who, within the last two years, has been denied an examination permit for the same reason; and

(c) Where an examination permit has been denied on the basis of character, the applicant has a right to inspect the minutes of any meeting of the Board of Governors at which his application has been discussed, together with a statement of the

specific grounds upon which denial of the permit was based.

2. The Alaska Bar Rules are amended by adding a new section, 7.1, to read:

Rule 7.1. Procedures.

Section 1. All hearings before the master shall be electronically recorded with facilities provided by the Alaska Court System. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision. The record may be destroyed two years following the last date upon which administrative appeal rights may be available under the provisions of this rule.

Section 2. From the time he has been designated to preside until issuance of his proposed decision and the transfer of the proceeding to the Board, the master shall have the following authority to:

(a) take or cause depositions to be taken;

(b) require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which a ruling will be required;

(c) hold conferences for the settlement or simplification of the issues by consent of the parties;

(d) dispose of procedural requests;

(e) establish the time limitations for the filing of pleadings and set the times for any hearings;

(f) preside at and regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaged in contentious conduct or otherwise disrupting the proceedings;

(g) administer oaths and affirmations;

(h) examine witnesses;

(i) rule upon questions of evidence; and

(j) render interlocutory decisions which are appealable to the Board of Governors of which no fewer than three members shall constitute a quorum.

Section 3. The Alaska Rules of Civil Procedure shall not apply to proceedings held pursuant to Rule I-7.

Section 4. The applicant shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues, even if not covered in direct examination, to impeach any witness regardless of which party called him, and to rebut the evidence against him. The applicant may be called and examined as if under cross-examination whether or not he testified on his own behalf. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient standing alone to support a finding unless it would be admissible over objections in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The sworn testimony of a witness subpoenaed under these rules shall be deemed testimony received in a judicial proceeding. In any action for defamation arising out of such sworn testimony, the witness shall be entitled to the defense of privilege to the same extent available to witnesses in judicial proceedings with the State of Alaska.

Section 5. The master shall prepare in writing a proposed decision supported by findings of fact and conclusions of law. In cases in which the majority of the Board was not present during the

evidentiary hearing, the master shall file the proposed decision with the Board and cause the entire record to be certified to the Board for decision. The record, upon payment of costs, shall be made available to the applicant. Copies of the proposed decision shall be served by the master on the applicant or his attorney of record and on the Executive Director, or the Bar Association's attorney of record. Within twenty days after service of the proposed decision, the applicant and the Executive Director or attorney for the Alaska Bar Association may file exceptions and briefs and, upon request, may appear and present oral argument to the Board. Copies of the exceptions and briefs, when filed, shall be served on the applicant or the Executive Director or attorney for the Bar Association, as the case may be.

Section 6. The Board may adopt the proposed findings, conclusions and decision, ruling or order of the master in whole or in part or reject it in its entirety and adopt its own findings of fact, conclusions of law, decision or order.

Section 7. The findings of fact, conclusions of law and final decision of the Board shall be conclusive as to the matter alleged in applicant's statement of appeal unless an appeal to the Supreme Court shall be filed within thirty days following service upon applicant of the findings of fact, conclusions of law and decision in the manner provided by these rules.

3. Rule 8, Alaska Bar Rules, is rescinded and re-promulgated to read as follows:

Rule 8. Supreme Court Review.

Section 1. Any interlocutory order of the Board of Governors may be subject to review as provided in Part VI, Rules of Appellate Procedure.

Section 2. An appeal to the Supreme Court may be filed by an applicant from a decision of the Board entered as provided in Section 7 of Rule 7.1.

Section 3. To the extent practicable, the procedure governing an appeal by an applicant for admission to the practice of law from a final decision of the Board of Governors shall be governed by the rules of practice in civil matters set forth in Part IV, Rules of Appellate Procedure.

Section 4. The filing fees normally charged for matters brought before the Supreme Court shall be applicable in all admissions cases.

DATED: December 18, 1979

EFFECTIVE DATE: April 1, 1979

Jay A. Rabinowitz
Chief Justice

Roger H. Connor
Justice

Robert Boochever
Justice

Edmond W. Burke
Justice

Warren A. Matthews
Justice

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Section 2. From the time he has been designated to preside until issuance of his proposed decision and the transfer of the proceeding to the Board, the master shall have the following authority to:

(a) take or cause depositions to be taken;

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(f) preside at and regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaged in contentious conduct or otherwise disrupting the proceedings;

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evidentiary hearing, the master shall file the proposed decision with the Board and cause the entire record to be certified to the Board for decision. The record, upon payment of costs, shall be made available to the applicant. Copies of the proposed decision shall be served by the master on the applicant or his attorney of record and on the Executive Director, or the Bar Association's attorney of record. Within twenty days after service of the proposed decision, the applicant and the Executive Director or attorney for the Alaska Bar Association may file exceptions and briefs and, upon request, may appear and present oral argument to the Board. Copies of the exceptions and briefs, when filed, shall be served on the applicant or the Executive Director or attorney for the Bar Association, as the case may be

Section 6. The Board may adopt the proposed findings, conclusions and decision, ruling or order of the master in whole or in part or reject it in its entirety and adopt its own findings of fact, conclusions of law, decision or order.

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Section 4. The filing fees normally charged for matters brought before the Supreme Court shall be applicable in all admissions cases.

DATED: December 18, 1979

EFFECTIVE DATE: April 1, 1979

Jay A. Rabinowitz
Chief Justice

Roger H. Connor
Justice

Robert Boochever
Justice

Edmond W. Burke
Justice

Warren L. Matthews
Justice

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Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Representative Thelma Buchholdt

FORM: Peggy Berck, Staff, House Judiciary Committee

DATE: February 7, 1979

RE: House Bill 85

Attached please find a copy of the Douglas Luna bar admission appeal. The case is relevant to HB 85 in that it discusses the kind of information available to a person contesting his denial of admission. See particularly on page 792 the discussion of Peterson and footnote 12 on same page.

Bar Assn.

- how many hearing requests
- how many hearing granted

THE SUPREME COURT OF THE STATE OF ALASKA

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IT IS ORDERED:

1. Sections 6, 7, 8, 9, 10, 11, and 12 of Rule 7, Alaska Bar Rules, are deleted and a new section 6 is added to read:

Section 6. Only the following materials shall be subject to production by the Alaska Bar Association in any proceedings held pursuant to this Rule:

(a) Where certification for admission to practice has been denied, the failing applicant has the right to inspect his examination books, the grades assigned thereto, the examination questions, the graders' analyses of the questions and a representative sampling of passing and failing answers to the bar examination at the office of the Alaska Bar Association or at such other place and such time or times as the Board may designate;

(b) Where an examination permit has been denied because of failure to meet residency requirements, the applicant has a right to inspect the minutes of any meeting of the Board of Governors at which his application has been discussed, together with a synopsis of the facts with respect to any other person who, within the last two years, has been denied an examination permit for the same reason; and

(c) Where an examination permit has been denied on the basis of character, the applicant has a right to inspect the minutes of any meeting of the Board of Governors at which his application has been discussed, together with a statement of the

specific grounds upon which denial of the permit was based.

2. The Alaska Bar Rules are amended by adding a new section, 7.1, to read:

Rule 7.1. Procedures.

Section 1. All hearings before the master shall be electronically recorded with facilities provided by the Alaska Court System. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision. The record may be destroyed two years following the last date upon which administrative appeal rights may be available under the provisions of this rule.

Section 2. From the time he has been designated to preside until issuance of his proposed decision and the transfer of the proceeding to the Board, the master shall have the following authority to:

(a) take or cause depositions to be taken;

(b) require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which a ruling will be required;

(c) hold conferences for the settlement or simplification of the issues by consent of the parties;

(d) dispose of procedural requests;

(e) establish the time limitations for the filing of pleadings and set the times for any hearings;

(f) preside at and regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaged in contentious conduct or otherwise disrupting the proceedings;

(g) administer oaths and affirmations;

(h) examine witnesses;

(i) rule upon questions of evidence; and

(j) render interlocutory decisions which are appealable to the Board of Governors of which no fewer than three members shall constitute a quorum.

Section 3. The Alaska Rules of Civil Procedure shall not apply to proceedings held pursuant to Rule I-7.

Section 4. The applicant shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues, even if not covered in direct examination, to impeach any witness regardless of which party called him, and to rebut the evidence against him. The applicant may be called and examined as if under cross-examination whether or not he testified on his own behalf. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient standing alone to support a finding unless it would be admissible over objections in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The sworn testimony of a witness subpoenaed under these rules shall be deemed testimony received in a judicial proceeding. In any action for defamation arising out of such sworn testimony, the witness shall be entitled to the defense of privilege to the same extent available to witnesses in judicial proceedings with the State of Alaska.

Section 5. The master shall prepare in writing a proposed decision supported by findings of fact and conclusions of law. In cases in which the majority of the Board was not present during the

evidentiary hearing, the master shall file the proposed decision with the Board and cause the entire record to be certified to the Board for decision. The record, upon payment of costs, shall be made available to the applicant. Copies of the proposed decision shall be served by the master on the applicant or his attorney of record and on the Executive Director, or the Bar Association's attorney of record. Within twenty days after service of the proposed decision, the applicant and the Executive Director or attorney for the Alaska Bar Association may file exceptions and briefs and, upon request, may appear and present oral argument to the Board. Copies of the exceptions and briefs, when filed, shall be served on the applicant or the Executive Director or attorney for the Bar Association, as the case may be.

Section 6. The Board may adopt the proposed findings, conclusions and decision, ruling or order of the master in whole or in part or reject it in its entirety and adopt its own findings of fact, conclusions of law, decision or order.

Section 7. The findings of fact, conclusions of law and final decision of the Board shall be conclusive as to the matter alleged in applicant's statement of appeal unless an appeal to the Supreme Court shall be filed within thirty days following service upon applicant of the findings of fact, conclusions of law and decision in the manner provided by these rules.

3. Rule 8, Alaska Bar Rules, is rescinded and re-promulgated to read as follows:

Rule 8. Supreme Court Review.

Section 1. Any interlocutory order of the Board of Governors may be subject to review as provided in Part VI, Rules of Appellate Procedure.

Section 2. An appeal to the Supreme Court may be filed by an applicant from a decision of the Board entered as provided in Section 7 of Rule 7.1.

Section 3. To the extent applicable, the procedure governing an appeal by an applicant for admission to the practice of law from a final decision of the Board of Governors shall be governed by the rules of practice in civil matters set forth in Part IV, Rules of Appellate Procedure.

Section 4. The filing fees normally charged for matters brought before the Supreme Court shall be applicable in all admissions cases.

DATED: December 18, 1979

EFFECTIVE DATE: April 1, 1979

Jay A. Rabinowitz
Chief Justice

Roger H. Connor
Justice

Robert Boochever
Justice

Edmond W. Burke
Justice

Warren C. Matthews
Justice

Distribution:

SC Justices
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Superior Court Law Clerks

H. B. 85 McKinnon's T. —

- was able to review sample answers ~~for~~ from other applicants or examinees.

graded by two other graders same question.

whether bar ~~fail~~ followed procedures - did not matter whether question answered properly.

No point value given along with model answer.

Bar examiner - no perfect answer to any question.

McKinnon - wants:
model answer

≪ But Bill would not require disclosure of the varying weights given each issue to be spotted.

Const. Problems - possibility, but thought should precede.

Norm Gorsuch - Firm Lobbys on behalf of Bar.

Hearing informal new rule model answers effective by. 1 Bar Rule Answers 1979
Problem asserted in bill.
↳ see cc.

3 part
Ca. Essy Part
AK. Essy Part
Multi State exam

Graders analysis
rec. answer, issues.
outline form.
two graders grade every single exam.
65-70 all are reread -
Ca. Graders read
two AK. Graders

Model answer unfair – grader's analysis more fair to applicant.

New Bar Rule – representative sampling; full hearing rt of cross exam., rt. of witnesses.

Practice of law – Sup. Ct. ~~Practices~~ has final authority to admit.

Could not avail himself of new procedures established. – person for whom bill submitted.

69.95 – will round up – he thinks.

Statistics of bar passing / failing rates.

Fria Brown 69 member of BAR.

BAR Assn - Sup. Ct. Battle.
Hugo Black Character - Brown v. 13.
'55 - Legis. Leg. Passed - BAR Act.
Admin. of Court - has authority to approve lawyers.
Bar asso. Art. 2 / Const. - AK.

BAR - Sup. Ct. > Sup. Ct. has authority =
whether good idea or not
it is a public body. Not
same as other professions.

AK. Const. Sup. Ct. shall make rules - 2/3 vote of body of leg.

Substantive changes -
S/D - rules - made certain changes. (civil + criminal).

---

leg. standards - rational connection.

Bill

good public policy

—

— const. question -
language says we can't go this far - Sup. Ct.
leg. not have power admin. of court -
even if 2/3 votes.

Brown thinks unconst.
Bradley - Clerk slip program. - Never Challenged.

Malone = Brown saying
Unconst.; begging question.
also says - have authority
to change rules.
disagrees with Brown's
Const. argument.
Brown:
Could do by resolution.

Nels Courts - not bashful
in entering into legislative
domain.

Chairman intent - whether
to give people in Atlanta
a chance - to testify.

Nels - not worried about
Brown discourse.

Brown's
Rules of court - procedure
Civil + Criminal cases.

* Court case - failure to pass bar - Thelma desires me to research.

Hold few days - passage rates

then bring bill back up.
but not for two weeks.

* talk to

title 8 leg. by law est.
Bar Assn. as instrumentality -
~~direct~~ disestablish it.
Sunset - get that to
apply - agree same as
board.

ATY

LICENSES

AK

#6

Bench's Copy

To: Charlie

From: Peggy

Date: April 18, 1979

Re: Mary Jane Craviotto - Letter (attached).

Ms. Craviotto contends in her letter: there is no provision for an attorney licensed to pratice in another state to become licensed to practice in the State of Alaska unless s/he graduated from an ABA approved law school or has praticed at least 5 yrs. in that other state. Furthermore, these same individuals are not eligible for the clerkship program established in AS 08.08.207.

Ihave researched the Bar Rules and the applicable Alaska Statutes and ~~herein~~ agree with Ms. Craviotto's analysis, but for one difference. Attorneys who are licensed in another state and have practiced in that state for 5 yrs. must still meet the ABA law school graduate requirement. These persons are called attorney applicants and only have to take a portion of the Alaska Bar Exam.

I talked to Norm Gorsuch about this matter and his only suggestion was to petition the Board of Governors for a Rule change.

It should also be noted, that as Ms. Craviotto stated the clerkship program established by law does not effect these persons as they must either attend one year of an ABA approved law school or attended a non-approved law school or program of study in ALASKA.

I have attached a copy of the appropriate Bar Rules and AS 08.08.207.

2205 Arcadia Drive
Anchorage, Alaska 99503
February 14, 1979

The Honorable Charles Parr
Chairman
Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:

There is an oversight in the statutes to which I would like to draw your attention. There is no provision in the Alaska statutes or Rules of Court which allows attorneys licensed out of state to take the bar exam unless they graduated from an ABA law school or have practiced for five years.

The realities of the situation are that such persons are members in good standing of the legal profession. Disagreements about legal education aside, to refuse such persons certification under any condition (which is the present state of the law) does an injustice to the individual applying for admission and I believe that the State also suffers.

Some attorneys licensed out of state who, through Vista, or Alaska Legal Services, come to this State and practice here for one or two years are then forced to return to the lower forty-eight due to the fact that there is no provision for them in the Alaska Statutes or Rules of Court which allows them to be certified to take the bar exam here in Alaska. (I might also point out that there are no law schools here in Alaska, therefore, no one practicing here has been specifically trained in Alaskan law.) These persons then could be seen as Alaska's only "graduates" in that they are the only persons who receive one or two years of training in Alaskan law. For these licensed attorneys, a one or two year clerkship in a law office of general practice should fulfill the requirements of Section 08.08.207 of the Alaskan Statutes, but as it presently reads, it would not.

I believe that this is a problem which deserves some attention and consideration. I make no secret of the fact that my concern stems from the fact that this is my present

situation. Because the person whom I intend to marry resides here and is a native of Alaska I am being forced to consider giving up a profession for which I am well trained.

I appreciate your assistance in this matter.

Sincerely,

Mary Jane Craviotto

Mary Jane Craviotto

/MJC

Rule 2. Eligibility for Admission.

Section 1. Every applicant for admission to the practice of law shall

(a) File an application in form prescribed by the Board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for admission;

(b) Be a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated or submit proof that the law course required for graduation from such a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English Common Law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for admission upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(c) Have attained the age of 19 years;

(d) Be of good moral character;

(e) Be a citizen of the United States, or a resident alien who intends to become a citizen of the United States;

(f) Be and remain a bona fide resident of the State of Alaska for a period beginning at least 30 days prior to the first day upon which the bar examination is to be given and continuing through the date upon which the Board certifies the applicant for admission to the Alaska Bar Association;

(g) Pass the bar examination prescribed by the Board pursuant to Rule 4 hereof.

Section 2. An applicant who meets the requirements (a) through (f) of Section 1 of this Rule and

(a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District

of Columbia for five of the seven years immediately preceding the date of his first or subsequent applications for admission to the practice of law,

may, on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall be required to pass the attorney bar examination prescribed by the Board.

Section 3. An applicant who meets the requirements of (a) and (c) through (g) of Section 1 of this Rule may qualify for admission if an application is filed on or before June 8, 1977 and the applica t:

(a) Is admitted to practice and is an attorney in good standing in the bar of another state;

(b) Graduated from law school after June 8, 1973 and was not eligible to apply for admission to practice in Alaska prior to that date;

(c) Enrolled in law school prior to June 8, 1973 with the intent to apply for admission to practice law in Alaska and in reliance on the Alaska admission rules in effect prior to the approval of this Rule. (Added by Supreme Court Order 161 effective immediately; amended by Amendment No. 1 to Supreme Court Order 161 effective April 12, 1974 and amended by Supreme Court Order 220 effective December 15, 1975)

PART I

ADMISSIONS

Rule 1. Board of Governors: General Powers Relating to Admissions.

Section 1. As used in Rules I-VIII:

(a) "Attorney applicant" means a person who has complied with the eligibility requirements of Rule 2, Section 2;

(b) "Bar examination" means the general or attorney's examinations which shall be offered to applicants for admission to the practice of law in Alaska;

(c) "Board" means the Board of Governors of the Alaska Bar Association;

(d) "Committee" means the Committee of Law Examiners appointed by the Board;

(e) "Executive Director" means the Executive Director of the Alaska Bar Association;

(f) "General applicant" means a person who has complied with the eligibility requirement of Rule 2, Section 1(a) through (f);

(g) "President" means the President of the Alaska Bar Association.

Section 2. Only those persons who fulfill all requirements for admission as provided by these rules shall be admitted to the practice of law in the State of Alaska and shall be members of the Alaska Bar Association.

Section 3. The Board shall examine or provide by contract or otherwise for the examination of all applicants for admission to the practice of law and shall determine or approve the time, place, scope, form and content of all bar examinations. Bar examinations may, in whole or in part, be prepared, administered and graded by or in cooperation with other states or the National Conference of Bar Examiners consistent with standards fixed or approved by the Board acting with the advice of the Committee of Law Examiners. No contract or cooperative agreement for the preparation, administration or grading of a bar examination shall operate to divest the Board

of its authority (1) to cause the Committee to review any examination, and (2) independently to determine the eligibility of an applicant to be admitted to the practice of law. The Board or any member thereof may require an applicant to appear before the Board, a committee or a master appointed by the President for such purpose, at such times and places as may be required, for oral examination and to furnish any such supplemental information or evidence in such form as may be required.

Section 4. The President shall appoint a Committee of Law Examiners composed of twelve members of the Alaska Bar Association. Members of the Committee shall serve for three years and until their successors are appointed. The terms of the members of the Committee shall be staggered so that the terms of four members of the Committee shall expire each year. Any person who has served on the Committee within the previous three years may serve as an alternate member of the Committee in the event that one or more of the regular members is unable to participate in a portion of the grading process. The Chairman of the Committee shall designate such alternate member or members to serve.

Section 5. The Committee shall prepare and grade, or administer the bar examination. The Committee shall advise the Board concerning the preparation, grading or administration of bar examinations as from time to time directed by the Board. The Board shall furnish to the Committee clerical and other assistance as may be deemed necessary by the Board.

Section 6. A majority of the members of the Committee shall constitute a quorum for the transaction of business relating to admissions. Five members of the Board shall constitute a quorum for such business.

Section 7. Any member of the Board, upon application by the Executive Director or by a master appointed by the President, shall have the power to issue subpoenas for the attendance of witnesses, or for the production of documentary evidence before the Board or before anyone authorized to act in its behalf.

Section 8. A member of the Board or anyone authorized to act in its behalf shall have power to administer oaths and affirmations and to take testimony concerning the admission of an applicant or administration of this rule.

Section 9. Any person subpoenaed by the Board or its designee to appear or produce writings who refuses to appear, give testimony, or produce the matter subpoenaed is in contempt of the Board. A member of the Board may report a contempt of the Board to the Superior Court for the Judicial District in which the proceeding is being conducted. The refusal or neglect of an applicant to respond to a subpoena or subpoena duces tecum shall constitute cause for abatement of further proceedings and dismissal of the application by order of the Board and costs may be assessed in the case of the applicant's contempt.

Section 10. On verified petition of the Executive Director or of an applicant, any member of the Board may order that the testimony of a material witness residing inside or outside the state be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set out (1) the name and address of the witness whose testimony is desired; (2) a showing of the materiality of his testimony; (3) a showing that the witness will be unable or cannot be compelled to attend; and (4) a request for an order requiring the witness to appear and testify before an officer named in the petition for that purpose. If the witness resides outside the state and if a member of the Board orders the taking of his testimony by deposition, the member of the Board shall obtain an order of court to that effect by filing a petition for the taking of the deposition in the superior court. The proceedings on this order shall be in accordance with provisions governing the taking of a deposition in the superior court in a civil action. (Added by Supreme Court Order 161 effective immediately and amended by Supreme Court Order 205 effective, nunc pro tunc, March 15, 1975; and amended by Supreme Court Order 285 effective September 22, 1977).

586-3210 Norm Gorsuch * will return call

not good of board -

clinchship - only alternative

petition to Bd. of Gov. - might make exceptions.

Bd. meeting here end of month

petitions Bd. for change in rule

Karen Hunt Bd Osou

Dale Wyles

Analogue

petition put for title change

Section 14, ch. 181, SLA 1976, provides: "The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power."

Sec. 08.08.205. Eligibility to take bar examination. Applicants who have not graduated from an accredited law school but are otherwise qualified may take the bar examination if they have completed a clerkship in the manner prescribed by § 207 of this chapter. (§ 12 ch 181 SLA 1976)

Cross reference. — As to admission to practice law, see Alaska Bar Rule II, adopted by the Alaska supreme court.

Editor's note. — As to legislative findings, see § 1, ch. 181, SLA 1976 in the Temporary and Special Acts of 1976 in Binder 9.

Section 14, ch. 181, SLA 1976, provides. "The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power."

Sec. 08.08.207. Law clerks. (a) Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having been graduated from an approved law school shall register as a law clerk as provided by this section. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the Alaska supreme court an application to register as a law clerk. The application shall be made on a form to be provided by the court and shall require answers to interrogatories the supreme court may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the court. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the court, in a manner satisfactory to the court, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the course of study adopted by the supreme court. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the court may determine.

(d) A law clerk whose registration has been approved by the court must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the court, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the court may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, textbooks, case books, and other material the court may from time to time require.

(h) A registered law clerk who has attended either an approved or a nonapproved law school may, in the discretion of the court, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section "law school" means

(1) a law school accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or

(2) a school in Alaska offering a course of study which the supreme court approves as the equivalent to a year's study in a law school under (1) of this subsection. (§ 12 ch 181 SLA 1976)

Cross reference. — For amendment to Rule 2 of Part I of the Alaska Bar Rules, see § 13, ch. 181, SLA 1976, located in the 1976 Temporary and Special Acts and Resolutions in Binder 6.

Editor's note. — As to legislative findings, see § 1, ch. 181, SLA 1976 in the Temporary and Special Acts of 1976 in Binder 9.

Section 14, ch. 181, SLA 1976, provides: "The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power."

Article 4. Unlawful Acts.

Sec. 08.08.210. Who may practice law. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska and is an active member of the Alaska Bar. A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

(b) The practice of law shall be defined in the Alaska Bar Rules.

(c) This section and § 230 of this chapter do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a contractual or fee basis; or

(3) is employed by or under contract to the legislature and whose activities would constitute the practice of law under this chapter and under Alaska Bar Rules, until the results are released of the third Alaska Bar examination following that person's employment.

(d) Employees of the Department of Law whose activities would constitute the practice of law under this chapter and under Alaska Bar Rules are required to obtain a license to practice law in Alaska, no later than 10 months following the commencement of their employment. (§ 12 ch 196 SLA 1955; am § 9 ch 181 SLA 1976)

Revisor's note. — The supreme court has adopted Rule 81, Rules of Civil Procedure, which provides for the practice in state courts by attorneys from other jurisdictions. This is a matter within the court's power to regulate and the second sentence of this section is probably superseded.

Effect of amendment. — The 1976 amendment designated the provisions of this section as subsection (a), and in that subsection, deleted "private" preceding "practice of law" and inserted "is licensed to practice law in Alaska and" in the first sentence, and substituted "supreme court" for "board" in the second sentence. The

no provision for Attys. licensed out of State;
Unless: graduated from ABA law School
or
have practiced for 5 yrs.

08.08.207 - one or two yrs. with AUSA - not count

my reading of statutes:

atty applicant - ① still has to meet the ABA law school graduate condition.

not acceptable for clerkship program since definition only proves for

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

April 23, 1979

Mary Jane Craviotto
22o5 Arcadia Drive
Anchorage, Alaska 99503

Dear Ms. Craviotto:

Upon receipt of your letter to Representative Charlie Parr, Rep. Parr requested me to research and respond to you.

After reading the relevant statutes and Bar Rules, I agree basically with your assessment of Alaska law regarding the licensing of attorneys who have graduated from law schools unapproved by the ABA. These individuals are ineligible to take the Alaska Bar Exam as either regular applicants or as attorney applicants.[1] (See Bar Rule 2, Sec. 1 and 2). Furthermore these individuals are also ineligible for the clerkship program established by AS 08.08.207 unless they attended an unapproved law program for one year offered inside the state of Alaska. (See specifically AS 08.08.207(i) (1) & (2).)

Since the legislature is about to adjourn and all House bills this session had to meet a 60 day deadline (March 15, 1979), it seems that your only alternative is to petition the Board of Governors of the Alaska Bar Association for a rule change. If you should desire to pursue this route, you should contact Ronald L. Kull, Executive Director of the Alaska Bar Association, to determine the proper procedure.

I sincerely wish that I could be of more assistance to you in this matter.

Sincerely yours,

Margaret W. Berk

Margaret W. Berk
Administrative Assistant
House Judiciary Committee

1. It should be noted that the Board of Governors of the Alaska Bar Association considered amending the attorney applicant requirements at thier recent board meeting in Juneau. I am unfamiliar with the results of their discussions on this matter, but you may wish to pursue this point.

To: Charlie

From: Peggy MMB

Date: April 18, 1979

Re: Mary Jane Craviotto - Letter (attached).

Ms. Craviotto contends in her letter: there is no provision for an attorney licensed to pratice in another state to become licensed to practice in the State of Alaska unless s/he graduated from an ABA approved law school or has praticed at least 5 yrs. in that other state. Furthermore, these same individuals are not eligible for the clerkship program established in AS 08.08.207.

I have researched the Bar Rules and the applicable Alaska Statutes and ~~xxxxx~~ agree with Ms. Craviotto's analysis, but for one difference. Attorneys who are licensed in another state and have practiced in that state for 5 yrs. must still meet the ABA law school graduate requirement. These persons are called attorney applicants and only have to take a portion of the Alaska Bar Exam.

I talked to Norm Gorsuch about this matter and his only suggestion was to petition the Board of Governors for a Rule change. name

It should also be noted, that as Ms. Craviotto stated, the clerkship program established by law does not effect these persons as they must either attend one year of an ABA approved law school or attended a non-approved law school or program of study in ALASKA.

I have attached a copy of the appropriate Bar Rules and AS 08.08.207.

I would be happy to draft a letter for you or send one from me, if you give me some indication of what you want stated.

Rule 2. Eligibility for Admission.

Section 1. Every applicant for admission to the practice of law shall

(a) File an application in form prescribed by the Board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for admission;

(b) Be a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated or submit proof that the law course required for graduation from such a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English Common Law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for admission upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(c) Have attained the age of 19 years;

(d) Be of good moral character;

(e) Be a citizen of the United States, or a resident alien who intends to become a citizen of the United States;

(f) Be and remain a bona fide resident of the State of Alaska for a period beginning at least 30 days prior to the first day upon which the bar examination is to be given and continuing through the date upon which the Board certifies the applicant for admission to the Alaska Bar Association;

(g) Pass the bar examination prescribed by the Board pursuant to Rule 4 hereof.

Section 2. An applicant who meets the requirements (a) through (f) of Section 1 of this Rule and

(a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District

of Columbia for five of the seven years immediately preceding the date of his first or subsequent applications for admission to the practice of law,

may, on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall be required to pass the attorney bar examination prescribed by the Board.

Section 3. An applicant who meets the requirements of (a) and (c) through (g) of Section 1 of this Rule may qualify for admission if an application is filed on or before June 8, 1977 and the applicant:

(a) Is admitted to practice and is an attorney in good standing in the bar of another state;

(b) Graduated from law school after June 8, 1973 and was not eligible to apply for admission to practice in Alaska prior to that date;

(c) Enrolled in law school prior to June 8, 1973 with the intent to apply for admission to practice law in Alaska and in reliance on the Alaska admission rules in effect prior to the approval of this Rule. (Added by Supreme Court Order 161 effective immediately; amended by Amendment No. 1 to Supreme Court Order 161 effective April 12, 1974 and amended by Supreme Court Order 220 effective December 15, 1975)

Section 14, ch. 181, SLA 1976, provides: "The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power."

Sec. 08.08.205. Eligibility to take bar examination. Applicants who have not graduated from an accredited law school but are otherwise qualified may take the bar examination if they have completed a clerkship in the manner prescribed by § 207 of this chapter. (§ 12 ch 181 SLA 1976)

Cross reference. — As to admission to practice law, see Alaska Bar Rule II, adopted by the Alaska supreme court.

Editor's note. — As to legislative findings, see § 1, ch. 181, SLA 1976 in the Temporary and Special Acts of 1976 in Binder 9.

Section 14, ch. 181, SLA 1976, provides: "The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empower the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power."

Sec. 08.08.207. Law clerks. (a) Every person who desires subsequently to qualify as a general applicant for admission to the Alaska Bar without having been graduated from an approved law school shall register as a law clerk as provided by this section. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the Alaska supreme court an application to register as a law clerk. The application shall be made on a form to be provided by the court and shall require answers to interrogatories the supreme court may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the court. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the court, in a manner satisfactory to the court, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the course of study adopted by the supreme court. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the court may determine.

(d) A law clerk whose registration has been approved by the court must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the court, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the court may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, textbooks, case books, and other material the court may from time to time require.

(h) A registered law clerk who has attended either an approved or a nonapproved law school may, in the discretion of the court, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section "law school" means

(1) a law school accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or

(2) a school in Alaska offering a course of study which the supreme court approves as the equivalent to a year's study in a law school under (1) of this subsection. (§ 12 ch 181 SLA 1976)

Cross reference. — For amendment to Rule 2 of Part I of the Alaska Bar Rules, see § 13, ch. 181, SLA 1976, located in the 1976 Temporary and Special Acts and Resolutions in Binder 6.

Editor's note. — As to legislative findings, see § 1, ch. 181, SLA 1976 in the Temporary and Special Acts of 1976 in Binder 9.

Section 14, ch. 181, SLA 1976, provides: "The legislature declares that this Act is passed pursuant to art. IV, secs. 1 and 15, Constitution of the State of Alaska, which empowe the legislature to prescribe the jurisdiction of the courts, and to change the Rules of Court, and pursuant to the legislature's inherent power."

Article 4. Unlawful Acts.

Sec. 08.08.210. Who may practice law. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska and is an active m- ber of the Alaska Bar. A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

(b) The practice of law shall be defined in the Alaska Bar Rules.

(c) This section and § 230 of this chapter do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a contractual or fee basis; or

(3) is employed by or under contract to the legislature and whose activities would constitute the practice of law under this chapter and under Alaska Bar Rules, until the results are released of the third Alaska Bar examination following that person's employment.

(d) Employees of the Department of Law whose activities would constitute the practice of law under this chapter and under Alaska Bar Rules are required to obtain a license to practice law in Alaska, no later than 10 months following the commencement of their employment. (§ 12 ch 196 SLA 1955; am § 9 ch 181 SLA 1976)

Revisor's note. — The supreme court has adopted Rule 81, Rules of Civil Procedure, which provides for the practice in state courts by attorneys from other jurisdictions. This is a matter within the court's power to regulate and the second sentence of this section is probably superseded.

Effect of amendment. — The 1976 amendment designated the provisions of this section as subsection (a), and in that subsection, deleted "private" preceding "practice of law" and inserted "is licensed to practice law in Alaska and" in the first sentence, and substituted "supreme court" for "board" in the second sentence. The

BAR
ASSOC.
BILL
#7

APA -

Sec 100

Bylaws + Regulations

meeting

open meeting -- requires meeting

Rule 81 > unduly restrict

R. 63 > not tight enough - allowed to people to practice who aren't qualified.

<subsitively amend>

08.03.010

term
~~unknown~~

BAR ~~1977~~ → 6/30/80 →

6/30/81 ← dead
82 effort for 1 yr.

Parole

4466.010

June 30/80 – June 30/81

050

44 66(d)
should be cited
in report +
responses thereto.

3000 Dartmouth Drive
Anchorage, Alaska 99504
February 28, 1980

Peg —
This is for your information
Nels

Honorable Nels Anderson, Jr.
Pouch V
Juneau, Alaska 99811

Dear Mr. Anderson:

I have read the article in the Anchorage Times concerning your efforts to abolish the Alaska Bar Association. I can state unequivocally that I agree with your assessment of the Alaska Bar Association because of my experiences with this group as a citizen with a problem involving a number of attorneys. I will enclose the complaint I filed on September 24 . I feel very strongly that because I filed a complaint against Dr. Thomas Gruenig, Mr. Floyd Smith, and Mr. Robert Flint that the problems I am having were proliferated instead of the Bar Association interceding to resolve the illegal treatment I have received. It was as if it was given credibility and authorization by the Bar Counsel, Mr. William Garrison. It seems obvious to me that the only reason the Bar Association exists in the State of Alaska is to give its members power over citizens. I find this tyranny at its worst and must speak out against the unethical actions of a number of people against me because I have sought to go through channels to resolve my situation. Instead I am facing further litigation which means the involvment of more attorneys who undoubtedly act in concert against my good intentions. Therefore, I will probably not file suit in this matter as I find the Bar of the State of Alaska where the biggest problems are and know that I will not be treated fairly.

The above is amazing for me who has in the past believed very strongly in the criminal justice system of this country. I am a judge's daughter myself with five brothers who are attorneys. I never before thought it possible that I could say that I believe that the corruption of this state begins with the Bar. I feel very strongly as an educator that it all goes back to education and because there is not a law school in this state, it is very difficult for citizens to protect themselves against attorneys who are completely unaccountable to the public. I will add though that if the idea of a law school became a reality in this state that I believe it should not be part of the University of Alaska.

I will enclose some other materials for your review about the unbelievable situation I am in because I am an honest person. It is just appalling.

If you or your office would like to contact me about this, I would be more that happy to discuss my opinions. Additionally, if you have a bill or any materials I can read on the issue of dissolution of the Bar Association, please send them to me.

Sincerely,

Theresa Nangle Obermeyer

Theresa Nangle Obermeyer