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depression are not invariably regional in scale; they have been characterized by one scholar as "local changes having little effect beyond their immediate area of occurrence."[6/] Indeed, other natural processes which cause accretion, reliction or submergence are often less local than glacio-isostatic uplift.[7/]

Certainty and ease of determining title. The most important policy underlying t law of accretion and reliction is that, faced with a choice between two competing rules, courts should give preference to the rule which will impart greater certainty and stability to land title. As the United States Supreme Court noted in Hughes v. Washington, 389 U.S. 290, 293-94 (1967), a rule which gives the government or any other nonadjacent third party title to narrow strips of new land formed here and there by gradual and imperceptible accretive processes would engender costly and repetitious litigation about the location of the line of mean high water. Certainty and stability of land title are fostered by the rule whereby the adjacent property owner takes title to all nonavulsive newly exposed lands.[8/]

This concern for certainty and ease in the determination of title to new land created by accretion or reliction should have particular force in he case of lands created by

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6/ Rice, Fundamentals of Geomorphology (Longman, 1977), p. 333. d other authorities are discussed in detail in Appendix D at pp. 5-10.)

7/ Eustatic sea-level changes occur both on a global scale and on the scale of ocean basins. Tectonic changes such as upwarping may be continental in scale. The entire Mississippi River delta is growing by alluvial accretion at the expense of riparian owners in Minnesota who derive no countervailing accretive benefit from the gradual erosion of their soil.

8/ The one general exception to the law of accretion and reliction, which provides that lands formed by avulsion do not go to the littoral owner, is a reflection of this policy concerning certainty of land title and discouragement of repetitious litigation. Unlike land formed by gradual and imperceptible accretive processes, land created suddenly and perceptibly by avulsion is relatively easy to identify with certainty. This is the obvious practical justification for the Hawaii Supreme Court's decision rejecting accretion claims to lava extensions, State, by Kobayashi v. Kimring, 566 P.2d 725 (Hawaii 1977). The Superior Court erred in failing to recognize this distinction in relying on Kimring.

reliction due to glacio-isostatic uplift. The world's best earth scientists cannot agree on how to separately measure each of the interacting physical causes of the emergence of land along the coast line due to tectonic and eustatic changes. Clearly, certainty and ease of determining title are frustrated by the Court's ruling in this case.

C. The Court's expectation that uplift accretion lands will be maintained in public ownership as a result of its decision, which was the keystone of its holding, is mistaken in fact.

The Court's decision rests squarely upon its contemporary policy preference that glacio-isostatically uplifted lands remain in public ownership. See Memorandum of Decision, p. 4 (Appendix G). The Court was grossly mistaken in assuming that this would be the effect of its holding.

Denying uplift accretion land to the littoral owner will not necessarily result in vesting title to that land in the State. Moreover, it is almost certainly not true that all of the uplift accretion lands whose titles do vest in the State will remain in public ownership or that their natural sanctity will be preserved in perpetuity.

The reference date for identification of the tidelands which the State required under the Alaska Statehood Act is January 3, 1959. Lands which had emerged above the line of mean high water between the date on which the littoral owner or its predecessor took title from the federal government and January 3, 1959, would presumably belong to the federal government if they are denied to the littoral owner under the Court's decision. As federal lands, they would be available in appropriate circumstances for selection by the State of Alaska or by native corporations, for entry under the public land laws, or for inclusion in national monuments or other federal withdrawals or reservations. The effect of the special exception to the accretion rule which the Superior Court created in this case, therefore, will be to create enclaves of federal and private lands between littoral

owners' lands and the State's tidelands.[9/]

Secondly, the fact that the State of Alaska holds title to uplift accretion land obviously does not guarantee that that land will remain in public ownership or that the natural integrity of the land will not be disturbed by development or settlement. State "uplift accretion" land would be available for the acquisition of private mining rights initiated by discovery and location under state law. In many cases, the land could be claimed by municipalities under AS 29.18.201, et seq., and utilized for private economic development projects. There may even be areas of the state in which uplift accretion land has become available for "homesteading" under the State's open-to-entry program as a result of the Superior Court's ruling.

In short, the Court was substantially in error to assume that the effect of its ruling would be to vest title to all uplift accretion lands in the State of Alaska and preserve their natural sanctity inviolate forever.

II.

THE COURT'S HOLDING SHOULD BE LIMITED SO AS TO HAVE PROSPECTIVE EFFECT ONLY.

The plaintiffs argued in the Superior Court that it would be improper to abrogate the general rule of accretion by creating a judge-made exception for glacio-isostatic uplift lands, unless the ruling were limited so to as to have prospective effect only. See, Appendix H, pp. 5-9. There are four considerations which are to be weighed in addressing this issue. See, Plumley v. Hale, 594 P.2d 497, 503 (Ak. 1979). It is submitted that all four of those considerations militate strongly in favor of prospectivity in the circumstances of this case.

First, the legal question is clearly one of first impression, and the Court's ruling was not foreshadowed. There

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9/ This could mean, for example, that a fish processing facility situated on a coastal Trade and Manufacturing Act grant acquired from the federal government during Territorial days could suddenly become landlocked by a strip of federal public land which has subsequently been selected by an ANCSA corporation or placed in a national monument by the effect of a "blanket" presidential proclamation.

can be no doubt that this new rule of law will take property owners throughout the State by surprise.

Secondly, it must certainly be true that there has been widespread justifiable reliance on the general rule of accretion among property owners whose lands may be affected by this case. Most have never heard of glacio-isostatic uplift; they presumably expect the general accretion/reliction rule to apply to any increase or diminution of area along their littoral boundaries.

As for the third consideration, "undue hardship," the Court's decision will have a grave impact upon property owners, sureties, lessees, contractors, predecessors in title who undertook warranty obligations, and other third parties. Ownership of substantial improvements constructed on uplift accretion lands will be in jeopardy. The same concern about title conflicts which warranted prospective ruling in the Katchemak Bay oil and gas lease case (Moore v. State, 553 P.2d 8, 28 (1976)), and the same concern for the stability of private contractual relationships which warranted prospectivity in Plumley, requires prospectivity in this case.

Fourth, petitioners submit that the stated purpose of the Court's new rule would not be substantially and unreasonably frustrated if that rule is given prospectivity of application. The vast majority of coastal acreage affected by this ruling is still owned by the State of Alaska or the United States. The Superior Court's public policy concerns case can be met for that vast coastal area if its ruling is confined to prospectivity. To the extent that the Court's policy concerns may also relate to the relatively minute amount of private lands involved, those concerns can be satisfied readily by other legal measures such as zoning, condemnation of development rights and other tools of land use control. The Court's decision visits an extreme and unnecessary hardship upon innocent private parties, in circumstances where the underlying policy concerns of its decision could be fully met by a prospective ruling coupled with the application of less intrusive measures.

CONCLUSION

The Superior Court has manufactured an exception to one of the most venerable common law rules in the Anglo-American legal tradition. It did so without benefit of any supporting case law or scholarly authority, in pursuit of a policy objective which, ironically, will not be met by the decision. Forcing the petitioners to proceed to trial without the benefit of interlocutory review would impose an unnecessary hardship upon them without effecting any countervailing benefit in judicial economy. Accordingly, the petitioners respectfully urge the Court to grant the petition for review.

RESPECTFULLY SUBMITTED this 10th day of November, 1980, at Anchorage, Alaska.

FAULKNER, BANFIELD,
DOOGAN & HOLMES
Attorneys for Petitioners

By: _____
James N. Reeves

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& HOLMES
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Anchorage, AK 99501
(907) 274-0666

Attorneys for Petitioners

IN THE SUPREME COURT FOR THE STATE OF ALASKA

FRED S. HONSINGER, et al.	)	
	)	
Petitioners,	)	
	)	
vs.	)	Superior Court
	)	
STATE OF ALASKA, et al.,	)	No. 1JU-73-210 CIV.
	)	
Respondents.	)	Supreme Court No.
	)	_____

APPENDIX TO PETITION FOR REVIEW

Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 19, 1981

Mr. Craig Matkin, Director
North Gulf Oceanic Society
P. O. Box 156
Cordova, Alaska 99574

Dear Mr. Matkin:

Thank you for your comments on SB 7.

If you wish to testify on this bill, the Judiciary Committee will be holding hearings on Friday, March 27, at 1:30 p.m. in the Butrovich Committee Room.

I will include your letter in each committee member's file for their consideration.

Sincerely,

Patrick M. Rodey
Chairman

PMR/ods

FEB 18 1981

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 12, 1981

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 7, "Act relating to accretion, reliction, and erosion; and providing for an effective date"

Dear Senator Fahrenkamp:

This letter is in response to your inquiry of January 27, 1981, in which you requested our comments on SB 7, "An Act relating to accretion, reliction, and erosion; and providing for an effective date." The apparent intent underlying the proposed legislation is to codify the common law rules relating to accretion, reliction and erosion. At the present time, the vast majority of states have not codified the common law rules in this regard, primarily (we assume) because a significant body of case law has developed in the area and there is at least some possibility that an attempt at codification might work a change in the law, as expressed in those cases, even though the intent was merely to codify it.

In addition to the attempt to codify the common law, SB 7 addresses one geophysical process which is not currently addressed in common law, that of isostatic rebound (identified as "glacio-isostasy" in the bill), which is the gradual rising of the surface of the earth as glaciers recede. As is probably to be expected, this geophysical phenomenon has not been addressed to any great extent in judicial decisions since it occurs in relatively few locations in the world.

However, the effect of this phenomenon on land title where privately-owned lands abut water bodies currently is the subject of litigation here in Alaska in the case of Honsinger v. State, Civ. Action 1JU-73-210 (First Judicial District at Juneau). The case involves title to approximately 95 acres of wetlands abutting Gastineau Channel just south of the Juneau airport. In that case, the Honorable

Thomas B. Stewart, presiding superior court judge, already has ruled that isostatic rebound does not have the same legal effect as accretion where the common law rule is that the property owner gains title to lands appearing as a result of accretion. However, Judge Stewart has ruled that the adjacent private property owner does not obtain title to new lands appearing as a result of isostatic rebound, and title to those lands which previously were below the line of mean high water (and therefore owned by the state) remains in the state. Under Judge Stewart's ruling, the state holds title to lands appearing as a result of isostatic rebound, not the private property owner.

The property owner in the Honsinger case has petitioned the Alaska Supreme Court to review Judge Stewart's decision. The court has not yet determined whether it will review the decision at this time rather than wait until the superior court action is completed (as is normally the case). However, as it stands at the present time, the law in the State of Alaska with respect to isostatic rebound (i.e., "glacio-isostasy") is that the land appearing as a result of that geophysical phenomenon is state-owned and does not inure to the private property owner. SB 7, as currently drafted, would have precisely the opposite result and therefore represents a change in the law as found by Judge Stewart. Accordingly, at this time, it would be inaccurate to view the proposed legislation as merely codifying existing law in the area since it clearly would be changing the law as announced by Judge Stewart in the Honsinger case.

We will let you know as soon as the Supreme Court makes a decision on Mr. Honsinger's petition for review. In the meantime, if we can be of further assistance, please contact us at your convenience.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: G. Thomas Koester
Assistant Attorney General

GTK:dlm

cc: Keith Specking
Office of the Governor

Arthur Peterson
Assistant Attorney General

Tom Meacham
Assistant Attorney General

Loni Levy
Assistant Attorney General

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

FRED S. HONSINGER, et al.,

Plaintiffs,

vs.

STATE OF ALASKA, et al.,

Defendants.

No. 1JU-73-210 Civil

MEMORANDUM OF DECISION

Plaintiffs in this case are upland owners of substantial acreage in an area within the City and Borough of Juneau commonly referred to as the "Mendenhall wetlands." It is an area of acknowledged economic and ecological value about which there are strong local public views relating to conflicting conservation and development interests. The issues in the case concern ownership of approximately 95 acres of land adjacent to that owned by plaintiffs which have emerged from tidelands' status to upland in the years between the time of the original federal homestead patent surveys of plaintiffs' land and the present. Those intitial surveys were bounded on the seaward side by an established meander line delineating the reach of mean high tides. At present the meander line of mean high tide is markedly seaward of where it was in the original surveys, and the contest involves the "new" land between.

Whether this land belongs to plaintiffs or the defendant State of Alaska involves both factual and legal questions. The factual questions relate principally to what processes in fact physically caused the land to emerge from its previous tideland condition. The parties agree at least that the emergence could substantially involve a phenomenon labelled "isostatic rebound," or "glacio-isostatic uplift."

The crucial legal issue is whether, assuming the new land was formed by that geophysical process rather than by more ordinary alluvial depositions or by reliction (receding of the waters), such land should be held to belong to the upland owner or to the state.

As may be noted from the chronologically-coded file number of this action, it has been pending resolution for many years. In large part the delay has been caused by genuine and extensive efforts by the parties to reach a negotiated settlement of the matter. In 1979 it became apparent that these efforts would not succeed, and defendants then moved to "establish the law of the case," based on a stipulation of counsel filed May 11, 1979. Counsel have prepared excellent and extensive memoranda of law, with supporting citations and reference materials, and the matter is before the court for decision on defendants' motion.

The issue is essentially one of first impression, with potential in its resolution for relatively wide-ranging economic and social impact in a glaciated, tidal region such as this northern portion of southeastern Alaska. The legal issue may be more succintly stated as "whether the common law rule that accreted land inures to the littoral owner is applicable to acreage created by glacio-isostatic uplift." At least two cases previously before this court have raised the issues, and reference to them is appropriate in appreciating at least the incidence of concern with the legal effect of this geological phenomenon. The cases are Schafer v. Schnabel, 494 P.2d 802 (Alaska 1972), and DeBoer v. State, No. 1JU-74-29 Civil. The latter case, because of jurisdictional questions, was subsequently litigated in the U. S. District Court for Alaska, as DeBoer v. United States and State of Alaska, 470 Fed.Supp. 808 (1979). However, both cases were determined

on other issues, so that the question now pending was not resolved. The careful research of counsel has revealed no other reported decision in which the issue was raised or met.

It is not my intention in this statement of decision to analyze extensively the legal litany of the common law doctrines relating to rights of accretion and reliction. That has been done quite sufficiently in the memoranda submitted on the motion. The critical matter is simply to state a choice between the traditional law of accretion and the exception to it urged on defendants' behalf, and to state the reasons for reaching that choice. Though the issue is indeed close, and susceptible to resolution either way on substantial grounds, my determination is in favor of the State's position.

That choice is fundamentally made upon weighing of the policy considerations supporting the ancient common rule as against those in favor of an exception. In my view the balance favors a rule retaining public ownership of recently exposed tidelands. I am convinced the decision should be founded on equitable principles balancing between the competing interests, rather than upon equitably blind adherence to common law, however venerable simply from its age. This approach has recently been applied by the supreme court of Hawaii, in determining against the former littoral owner where access to the ocean was cut off by a lava flow forming new land. State by Kobayashi v. Zimring, 566 P.2d 725, 734 (Ha. 1977). As also noted in that decision, other courts have found that though littoral access should be preserved where possible, that policy is not so sacred as to be inviolate and may have to be deferred in favor of other considerations. (See cases cited in Zimring, at p. 734.)

There are basically three policy reasons indicated as justifying the rule that lands formed gradually and imperceptibly should inure to the littoral owner. The first and most prominent of these is that the riparian character of the land may be its most valuable feature, and the owner should be allowed to retain that right to access to the adjacent waters that inured in the nature of the land as originally acquired. It is particularly with relation to this policy reason that it appears the public interest outweighs that of the private landowner. A policy giving large benefits from this widespread natural phenomenon, in effect gratuitously, to only a few does not appear equitable as against a policy spreading those benefits in equal measure to all of the people of the State. This is more especially true where there is such increasing public demand for recreational and public use, as well as for protection against destruction of the natural character of lands just such as these are. Under its duties as a trustee of the lands, the State will be obligated to protect the property and regulate its use. It may be presumed that this duty would be implemented by devoting the land to actual public uses, such as for recreation. And likewise presumably there could be no sale of the land unless it promoted a valid public purpose. The upland owners under this policy would share in the public access to the land and adjacent waters, losing only the private nature of the access held when their lands were originally acquired. Their right of access, held with the public, would be lost only if access is outweighed by some conflicting public interest use or if the land is sold in the public interest. (See generally Zimring, at p. 735.)

Plaintiffs have argued that such a public interest policy should be adopted by the legislature rather than by

the courts of this state, and have noted that legislation of this sort has been enacted in some states. E.g., Oregon Revised Statutes § 274.440. While certainly the legislature could and perhaps should properly act to regulate the interests here involved, that does not preclude the court from acting in the absence of a legislatively-determined policy. This follows logically from the fact that the traditional doctrine of accretion is no more than a court-determined policy itself based on equitable grounds.

The second policy reason for the traditional rule relates to the notion of "natural justice" that the upland owner bears the risk of loss to his property from natural causes and therefore should enjoy the benefit of gain deriving from such processes. There may be some validity to the State's argument, which plaintiffs challenge, that the doctrine does not apply to glacio-isostatic uplift because that phenomenon in recorded human history has not had a reverse character. In other words, there is no countervailing risk of loss from this particular process. In my view, it is a more persuasive argument that even though this "natural justice" notion may have some merit, it is outweighed by the public interest concerns already expressed.

The third policy reason is that the traditional rule gives greater certainty and stability to land titles. It is argued that a rule which would give the State title to narrow strips of new coastal land formed by very gradual processes would engender litigation about the location of the line of mean high water. However, it appears highly unlikely that any such litigation would develop unless there were indeed valuable lands that had been identified and at least arguably created by the geologic process involved in this action. As for difficulties of proof relating to the

actual processes by which the new land was formed, these do not appear to be so complex or formidable as to outweigh the public policy interests that have been noted as basically determinative.

For the reasons indicated the defendant State's motion to establish the law of the case will be granted, and a form of order to that effect has been filed and entered.

DATED: September 29, 1980.

Thomas B. Stewart
Presiding Judge

CERTIFICATION

This is to certify that on the above date I mailed a copy of this Memorandum of Decision to:

Jonathan K. Tillinghast, Esquire
Michael M. Holmes, Esquire

Mary Wanie
Secretary to the Judge

JUNEAU EMPIRE, March 4, 1981

Glacial rebound

Bill aids landowners

By LORI EVANS
Empire Staff Reporter

When a glacier recedes and land appears, does that new land belong to the adjacent property owner or the state?

A Juneau Superior Court judge last fall ruled land rising as glaciers retreat — isostatic rebound or glacio-isostatic uplift lands — belong to the state.

But a bill introduced by Sen. Bill Ray, D-Juneau, would allow the property owner to claim that "new" land.

Thousands of acres could be affected in Southeast Alaska, as well as elsewhere in the state, where geologists say new land is rising from the sea as glaciers retreat. The land, usually beach frontage, is highly valuable to private owners, and much used by hunters, hikers, fishermen, picnickers and others who use public land.

Ray said Tuesday he thinks private property owners should have title to the new land. He described his bill as "an evening out process."

If the state gets land as it erodes from the property of private land owners, such as sand washed from a stream bank into a navigable stream bed, than property owners should get land that appears as the result of other natural forces, such as glacial retreats, according to Ray.

ALASKA NEWS

"That's the balancing act," said Ray.

Ray said his bill was introduced at the request of constituents affected by Judge Thomas B. Stewart's ruling.

Common law holds that a property owner can claim land formed by accretion — the build-up of land by gradual action of natural forces such as silt or gravel deposits from rivers. At the same time, though, owners risk losing property through such natural causes as erosion.

Stewart ruled this notion of "natural justice" does not apply to isostatic rebound "because that phenomenon in recorded human history has not had a reverse character." In other words, property owners do not bear the risk of loss from glacier action.

In his decision, Stewart also said there is a public interest involved in making waterfront property public.

"A policy giving large benefits from this widespread natural phenomenon, in effect gratuitously, to only a few does not appear equitable as against a policy spreading those benefits in equal measure to all of the people of the state. This is more especially true where there is such increasing public demand for recreational and public use, as well as for protection against destruction of the natural character of lands such as these are," wrote Stewart.

He added that adjacent property owners do not lose their right of access to the land when it is in the state's hands.

He also said that since the land would be controlled by the state there would be no sale unless it were for a "valid public purpose."

Stewart admitted, too, that the " ... the issue is indeed close, and susceptible to resolution either way on substantial grounds...."

His decision came in a case involving title to approximately 95 acres of wetlands abutting the Gastineau Channel south of the Juneau airport. The property owners are Fred S. Honsinger and Ted Smith. They have petitioned the Alaska Supreme Court to review Stewart's decision.

SB

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THE ALASKA BAR ASSOCIATION

February 1980

Please Note: This booklet contains general information in summary form and is not intended to supercede the Alaska Bar Rules, or the Bylaws or Regulations of the Alaska Bar Association. In the event any information contained herein conflicts, the Rules, Bylaws and Regulations shall control.

THE ALASKA BAR ASSOCIATION

** An Informative Summary **

Board of Governors

Donna C. Willard, President
William B. Rozell, President-Elect
Jonathan H. Link, Vice-President
Edward G. King, Secretary
Albert H. Branson
Stanley T. Fischer
Karen L. Hunt
Elizabeth P. Kennedy
Richard D. Savell

Staff

Randall P. Burns, Executive Director
William W. Garrison, Bar Counsel
Willetta T. Jones, Executive Assistant
Scarlett O. Watts, Discipline Secretary
Gary E. Martin, Investigator
Vickilee Goodrow, Bookkeeper
Vicki L. Moore, Lawyer Referral/Receptionist

February 1980

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FOREWORD

On November 4, 1884, some six months after the passage of the Organic Act, three attorneys were admitted to the practice of law in Alaska. In the next two years, the Bar -- practicing before the District Court of the United States in and for the District of Alaska -- increased to thirteen (13) members and, by 1896, there were fifty-nine (59) members. Of that number, approximately twenty-one (21) resided within the State either in Juneau, Nome, "Wrangle," Sitka, Valdez, "Skaguay," or Berners Bay.

It was those men who, in November of 1896, in Juneau, organized the Alaska Bar Association. The governing documents were a Constitution and Bylaws. Its object was "...to maintain the dignity of the legal profession, to secure proper legislation for Alaska, to promote the administration of justice, and to cultivate social intercourse among its members."

Membership was voluntary, annual fees were $1.00, and six members constituted a quorum. The standing committees were legislation, judiciary, and grievances. The first President was John S. Bugbee.

In 1955, the structure changed somewhat with the passage of the Integrated Bar Act by the Territorial Legislature. Nevertheless, the essential functions and purposes continued, albeit on an expanded, more formal basis.

As of January 1, 1980, the Alaska Bar Association has 1,463 members in the following categories: Active, 1263; Inactive, 147; and Judicial, 53. Its affairs are governed by a nine (9) member Board comprised of the following persons:

Donna C. Willard, President
William B. Rozell, President-Elect
Jonathan H. Link, Vice-President
Edward G. King, Secretary
Albert H. Branson
Stanley T. Fischer
Karen L. Hunt
Elizabeth P. Kennedy
Richard D. Savell

Written guidelines for governance are contained in the Integrated Bar Act, the Alaska Bar Rules (promulgated by the Supreme Court of Alaska), the Code of Professional Responsibility, the Association's Bylaws and Regulations, the Board of Governors' Policy Manual, and a Personnel Manual.

The two most important functions of the Bar are admissions and discipline of its members, both of which are carried out under the supervision of the Supreme Court of Alaska.

There are presently twenty (20) standing committees, six (6) Bar Rule committees, and seven (7) special committees. In addition, the Bar Association participates in a number of adjunct organizations and administers special projects such as the State-wide Lawyer Referral Service. In excess of 300 attorneys participate, voluntarily and without remuneration, in the affairs of the Association.

The staff of the Alaska Bar has grown from a part-time, volunteer executive secretary in 1968, to the following seven, full-time professionals:

Randall P. Burns, Executive Director
William W. Garrison, Bar Counsel
Willetta T. Jones, Executive Assistant
Scarlett O. Watts, Discipline Secretary
Gary E. Martin, Investigator
Vickilee Goodrow, Bookkeeper
Vicki L. Moore, Lawyer Referral/Receptionist

The annual budget of the Association is in excess of $400,000.00, monies largely garnered from its members through dues, continuing legal education programs, and conventions.

The foregoing is a thumbnail sketch of the history, organization, and operation of the Alaska Bar Association which will be expanded on in the materials which comprise this booklet. It is the expectation and desire of the Board of Governors that those who peruse these pages will gain a greater understanding of the nature and functions of one of this State's oldest organizations, the Alaska Bar Association.

I. THE BOARD OF GOVERNORS

Nine active members of the Alaska Bar are elected by their peers to govern the affairs of the Association. Serving three year staggered terms, two attorneys represent the First Judicial District, four are from the Third Judicial District, two serve the Second and Fourth Judicial Districts, and one member is elected at-large. Any vacancy is filled by the Board through appointment for the unexpired term.

The Board meets six times a year at the times and places designated by the President of the Association for a period of at least three days per meeting; special meetings may be called by the President or three members of the Board of Governors.

At its meeting, in addition to discipline and admissions, the Board is required to formulate, determine, and adopt matters of policy concerning the activities, affairs and organization of the Alaska Bar Association.

A. Officers

There are four officers (President, President-Elect, Vice-President and Secretary), all of whom are elected from among the members of the Board by the active Association members in attendance at the annual meeting held in June of each year.

There is currently one member of the Board charged with fiscal oversight. As of June 1980, this responsibility will be fulfilled by a fifth officer, the Treasurer of the Alaska Bar.

The President of the Bar Association presides at all meetings of the Board and of the Bar Association, and is designated as the official spokesman for the Association. The President-Elect of the Alaska Bar Association is required to assist the President in all of the President's endeavors and take the place of the President if the President is unable to perform the duties of that office. The Vice-President of the Association is in charge of all committee operations and the Secretary is obligated to record all of the proceedings at both Board meetings and the annual meeting of the Association. The Treasurer will be responsible for overseeing the fiscal affairs of the Association, including budget preparation, reports to the Board at each meeting, and the annual report to the membership.

B. Purposes, Policies, and Procedures

In order to understand the commitment that each member of the Board of Governors makes when his name is submitted to the election process, it is appropriate to review the Bylaws, policies, and Alaska Bar Rules. Article 2, Section 2, of the Bylaws of the Alaska Bar Association sets out the purposes of the Association. These are:

1. To cultivate and advance the science of jurisprudence;

2. To promote reform in the law and in judicial procedure;

3. To facilitate the administration of justice; and

4. To encourage higher and better education for the membership in the profession, and to increase the usefulness and efficiency of the Bar Association.

The workload undertaken by members of the Board of Governors includes admissions, discipline, fiscal responsibility, and service activities. Admissions and discipline are discussed in other sections of this booklet. Illustrative of the other activities of the Board are the following:

1. The Board of Governors is required to approve an annual budget, oversee investment of Association funds, and maintain control of expenditures.

2. In addition to attendance at six or more Board meetings, the Governors determine the sites and dates of the annual business and mid-winter C.L.E. meetings, plan the programs, and preside at the various functions.

3. The Board reviews, approves, and publishes all Ethics Opinions which respond to requests for rulings and give guidance to the membership in the ethical conduct of the profession.

4. The Board of Governors has overall responsibility for defining the powers, duties and functions of all of the Committees of the Alaska Bar Association. These Committees are designated as standing committees, as special committees, and as bar rule committees. The President appoints all members and designates a chairman and vice-chairman for each committee. In addition, a member of the Board serves on each committee as a liaison. The members of all committees serve at the pleasure of the Board and their reports and recommendations must be

adopted by the Board of Governors to be binding upon the Association. A committee chairman's handbook is currently being prepared by the Board.

5. The Board actively supports education and public relations, including programs in the schools with respect to the justice system, seminars for non-lawyers, institutional advertising, and a state-wide lawyer referral service.

6. The Board oversees the administration of the Bar office and its staff, and has developed a personnel manual and job descriptions to guide its employees in the performance of their duties.

7. The Board recommends to the Supreme Court revisions and additions to the Alaska Bar Rules, and continually reviews and revises the Bylaws and Regulations of the Association. In addition, the Board has promulgated a Policy Manual which sets forth the guidelines for the operation of the Board in all phases of Association activity.

8. In addition, the Board is directly responsible for all of the other projects, programs, and activities described in this booklet.

C. Admissions

The Alaska Bar Rules set forth the responsibilities of the Board of Governors with respect to admissions. They include the following:

1. The Board of Governors shall examine or provide by contract for the examination of all applicants and determine or approve the time, place, scope, form and content of all Bar examinations.

2. The Board of Governors sets the standards for the examinations.

3. Under the Rules, the Board has the power to require the appearance of an applicant before the Board in an instance where there is concern on behalf of the applicant or the Board regarding the application procedure, or to refer the matter to a Master for the purpose of accumulating all of the facts and supplementing the record before a decision is made.

4. Both the Board members and the Master have the power to issue subpoenas, administer oaths and affirmations, and take testimony concerning any application for admission to the Alaska Bar Association.

5. The Board of Governors must develop an appropriate application form requiring the applicant to file the necessary evidence and documents in support of the applicant's eligibility for admission. The Board is required to determine all questions of residency.

6. The Board sets the fees and dates for filing of all documents with the Association, and is required to make a determination as to whether or not there has been a substantial change in circumstances when an applicant is applying to take the examination after the third time.

7. The Board is required to certify the results of each exam to the Supreme Court for the State of Alaska with its recommendation for admission.

8. In the event an applicant is denied an exam permit or is denied certification, the applicant is required to file a verified statement with the Board of Governors and, upon a review of the sufficiency of the verified statement, a hearing may be granted. The burden of proof is upon the applicant to prove material facts that constitute an abuse of discretion or improper conduct on the part of the Board of Governors, the Executive Director, the Law Examiners Committee, or the Master appointed by the President. Each decision must be supported by findings of fact and conclusions of law, with the Board having the power to adopt the decision of the Committee or Master in whole or in part, or reject the recommendation and draft its own findings and conclusions of law along with appropriate order. In each instance, the applicant may

appeal the decision of the Board of Governors to the Supreme Court.

D. Discipline

One of the most critical areas of responsibility for the Board of Governors is discipline of Association members.

Whenever a disciplinary matter is before the Board of Governors, the Board sits as the "Disciplinary Board of the Alaska Bar Association."

In that capacity, it appoints a Stat Disciplinary Administrator, supervises the Administrator and his staff, and appoints the area Hearing Committees of which there are currently four: one in Southeastern, two in Southcentral, and one in the Interior.

In addition, the Board is charged with the responsibility for investigating all complaints filed against lawyers, and for hearing appeals from the recommendations of the Hearing Committees. The Board administers private reprimands and, in the case of disbarment, suspension, or public censure, forwards its recommendations to the Supreme Court of Alaska for final action.

The Disciplinary Board meets at least six times a year, not including conference telephone calls. Five members constitute a quorum. Complete records of all disciplinary proceedings are permanently maintained.

II. ADMISSIONS PROCEDURES

In order to practice law in the State of Alaska, membership in the Alaska Bar Association is a necessary prerequisite. In other words, it is an integrated bar association.

A. Requirements for Admission

Applicants for admission to the practice of law must be graduates of an accredited law school or have completed an approved clerkship program, must pass the Alaska bar examination, be determined to be of good moral character, and be residents of the State of Alaska at the time of the examination and at the time of admission. Attorneys admitted in other jurisdictions may qualify to take the attorney bar examination rather than the general bar examination.

The Alaska bar examination is intended to assist in the determination of whether applicants possess minimal competence to practice law. This includes the ability to analyze facts, apply thereto the appropriate substantive and procedural law, and to effectively communicate the issues and the proposed solutions. In addition, a working knowledge of the Code of Professional Responsibility must be demonstrated.

B. Application Procedure

Information and application forms may be obtained from the Bar office. These include instructions and information on the examination; an affidavit of residence; fingerprint cards; and an application form which includes an affidavit of personal history and an authorization and release consenting to an investigation of moral character, professional reputation, and fitness for the practice of law. Applicants are also sent a report form that is to be returned separately and voluntarily to the Committee on Legal Educational Opportunities. The form is designed to provide voluntary statistical information for an on-going evaluation of the examination's effect on racial and ethnic minorities.

The Alaska Bar Association conducts a character investigation on each applicant for admission to the Bar based on information provided by the applicant, contacts initiated by the Bar office with individuals familiar with the applicant, and on other information which may be sought by or come to the attention of the Bar Association. No applicant is certified for admission, regardless of the applicant's score on the written examination, if he is determined not to be of good moral character. The Bar Association may require a formal hearing, with the introduction of sworn testimony and other evidence, where it

determines that procedure to be necessary or appropriate to assist in its investigation. An applicant may appeal from an adverse determination on character to the Board of Governors and, if necessary, to the Alaska Supreme Court.

C. Bar Examination

The Alaska bar examination is conducted twice each year in Anchorage, Fairbanks, Juneau and Ketchikan. It consists of: (1) one-half day of essay questions on Alaska law prepared by a permanent committee of the Association known as the Alaska Law Examiners; (2) two half-days of essay questions on general common law not limited to any particular jurisdiction prepared by the California Law Examiners; and (3) two half-days of objective, multiple choice questions (the Multi-State bar examination or "MBE") prepared by the National Conference of Bar Examiners and administrered simultaneously in over forty states.

The Bar Examination Review Committee, a special committee of the Alaska Bar Association, is presently conducting an in-depth study of the bar examination to determine whether any examination at all is appropriate; whether it should be an all Alaska examination; whether the examination should be made up entirely of objective questions, written essays, or both; whether the examination should continue to utilize the Multi-State and California questions; the appropriate examination for attorney applicants,

if any; and to make any other recommendations it deems appropriate. The Board of Governors will then act, based on the recommendations of the Committee and the information gathered by the Committee.

D. Grading of Examinations

A composite score of 70% on the Alaska bar examination is a passing grade. Grades are rounded to the nearest one hundredth of a point, so a grade of 69.95 or above is considered to be a passing grade. All examinations are graded anonymously using a double number coding system. A law examiner who is able to identify a particular applicant's examination paper is required to disqualify himself from grading that paper.

The Alaska essay questions are graded by the Alaska Law Examiners and constitute 20% of the total score. Each answer is read by two separate examiners. If the grades assigned by the two examiners are within 10% of each other, the essay question is assigned the average of the two scores. If the two grades differ by more than 10%, the two examiners confer to determine the reasons for the different grades and decide between them on the appropriate score. If the two examiners are unable to agree, a third examiner reviews the answer and the scores assigned by the other two examiners, and decides on the appropriate score.

The Multi-State bar examination objective answer sheets are graded by machine by the National Conference of

Bar Examiners. These scores are scaled to compensate for any difference in difficulty of the examination from one administration to another, based on a detailed national statistical analysis, a comparison of performance on repeat questions, and other factors. Because of this, applicants who have taken the MBE within a year before the examination in question may substitute a passing MBE score from the prior examination, whether or not that prior MBE was taken in Alaska. A scaled score of 135 on the MBE has been determined to be the equivalent of a passing score of 70%. The MBE score constitutes 40% of the entire grade.

The general law essay questions are graded by the California Law Examiners. These scores make up 40% of the entire grade. When the examination scores of all three portions of the examination are combined, applicants with a composite score of 70% or more are determined to have passed. For applicants who receive a composite score of at least 65% but less than 70%, the California essays are re-read by the Alaska Law Examiners. If, upon re-reading, a higher grade is assigned to the California portion, the composite score is re-calculated and examinees obtaining a 70% or better are passed. If, upon re-reading, a lower score is assigned, the original composite score is maintained. The original composite score is never lowered. Three applicants on the July 1979 Alaska bar examination passed as a result of higher scores given on a re-reading of their California essays.

In reviewing the examination results before certification, the Board of Governors receives a report on the examination, including irregularities (if any), a compilation of scores by applicant number for each portion of the examination, a representative sampling of anonymous answer papers, and copies of the essay questions. Once the examination results are approved, the names of passing and failing applicants are disclosed and the names of passing applicants are published. Individual scores are not revealed to the applicants or to the Board unless a review of the examination is required by a failing applicant or a failing applicant files an appeal.

E. Appeals

An applicant will be granted a hearing in either of two circumstances: (1) denial of an examination permit, or (2) denial of certification to the Supreme Court for admission. The applicant has the burden of alleging and proving an abuse of discretion or improper conduct on the part of the Executive Director, the Law Examiners Committee or the Board of Governors. If the applicant is not satisfied with the action taken on his appeal by the Board of Governors, he can appeal to the Alaska Supreme Court.

A failing applicant is provided with copies of the essay questions, his answers, a representative sampling of answers of both passing and failing exam papers, and the graders' analyses of the Alaska questions. Release of copies of current Multi-State bar examination questions is prohibited by the National Conference of Bar Examiners.

When an appeal is filed which raises factual issues of whether the Association has abused its discretion or acted improperly, the appeal is assigned to a Master for a hearing. The Master hears testimony, considers other evidence, and then prepares in writing a proposed decision supported by findings of fact and conclusions of law. The Master's report is then submitted to both the applicant and the Board. Thereafter, either the applicant or Bar Counsel may file exceptions and briefs and, upon request, may appear and present oral argument to the Board of Governors. The Board may adopt the decision of the Master in whole or in part, or reject it in its entirety and adopt its own findings of fact, conclusions of law, and issue its decision.

On the other hand, if there are no factual matters in dispute, the Board may decide the appeal without assigning it to a Master. If there are questions concerning the applicable legal principles, the Board will consider written or oral argument from the applicant and from Bar Counsel and will issue a written decision.

The applicant may appeal any adverse decision by the Board of Governors to the Supreme Court, which is the final arbiter on admissions questions. The Supreme Court reviews the findings of fact, conclusions of law and questions concerning procedure, due process, or other matters that are raised by the applicant. The decision of the Supreme Court in admission matters is final and binding on the Association and in all future similar admission cases.

F. Assistance to Unsuccessful Applicants

The Committee on Legal Educational Opportunities provides assistance to any unsuccessful applicant requesting it in reviewing examination papers and analyzing individual performance. This Committee also reviews the examination itself in orde. to provide a continuing evaluation of the examination's effects on racial and ethnic minorities. The work and findings of the Committee on Legal Educational Opportunities will be coordinated with the study of the entire bar examination now being conducted by the special Bar Examination Review Committee.

G. Statistical Summary

Enclosed with the materials provided to applicants is a letter providing information on a number of subjects, including the number of past applicants, the number of

passing applicants, and the percentage of applicants passing the ten examinations between February 1975 and July 1979.

III. DISCIPLINE OF MEMBERS

The activities of attorneys admitted to practice within the State of Alaska are governed by the Rules of Disciplinary Enforcement promulgated by the Alaska Supreme Court. As will be seen below, the substance and procedure of the rules of the Bar Association and the Supreme Court in regulating the practice of law within Alaska are entirely different than those of agencies of the State of Alaska charged with the regulation of legislatively controlled businesses and professions. For example, a ruling as to a permit or license issued by the Alcoholic Beverage Control Board or the Alaska Transportation Commission is final and binding, subject only to the right of a party to appeal questions of law to the Superior Court and, thereafter, if desired, to the Supreme Court. In matters involving public censure, suspension, or disbarment of attorneys, however, the Supreme Court is the decision maker, acting not as an appellate body but as the sole forum with authority to make and enforce its ethical pronouncements.

A. The Supreme Court's Authority

The Supreme Court has held that an attorney's license to practice law is "a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters...as an officer of the courts."

Attorneys are, therefore, bound to act in conformity with standards "adopted or recognized by the Supreme Court of Alaska." The Supreme Court has also declared that any attorney admitted to practice in Alaska, or who appears or participates in legal matters within this State, "is subject to the supervision of the Supreme Court of Alaska....and the Disciplinary Board" which the Court established.

Due to the vastness of the size of the State of Alaska and the great distance between population centers, the Supreme court has established three disciplinary areas: (1) the First Judicial District; (2) the Second and Fourth Judicial Districts; and (3) the Third Judicial District. Charges of misconduct on the part of a lawyer are heard by the hearing committee established for the district in which the attorney lives or practices. Such charges may be based upon violation of the Code of Professional Responsibility or misconduct within or arising from disciplinary proceedings themselves. Depending on the severity of the misconduct, it may result in disbarment, suspenion, or public censure by the Court or, in less serious cases, in private reprimand or informal admonition by the Association.

B. The Disciplinary Board

As has been discussed above, the Board of Governors acts as the Disciplinary Board for the Supreme Court.

It is required by Rule that all proceedings involving allegations of misconduct be kept confidential with the exception of public results. The day-to-day workings of the disciplinary process have been delegated to the Disciplinary Administrator, an attorney, whose functions include assisting the public in the complaint process, maintaining records, investigating, processing, and prosecuting complaints and appeals.

The procedures for disciplinary enforcement begin upon the filing of a Request for Investigation by any person alleging misconduct on the part of any attorney. A preliminary investigation by the Adminsitrator may result in notification to the complainant that the allegations, on their face, are inadequate, incomplete, or otherwise insufficient as a matter of law to warrant further action. However, whenever the allegations, if true, would constitute misconduct, the attorney is required to answer in writing within twenty (20) days. An investigation is thereafter conducted. After the investigation, the official hearing process is instituted by the filing of a Petition for Formal Hearing.

C. The Hearing Committee

Investigations which result in the issuance of a Petition for Formal Hearing by the Disciplinary Administrator are referred to a Hearing Committee in the relevant geographical area. The attorney may thereafter file a

written answer admitting or denying the charges, or setting forth a claim of mitigation. Hearings are then held before the Committee. At the hearing, the Disciplinary Administrator prosecutes the case on behalf of the complaining party. The responding attorney may be represented by counsel. Either party may call, examine, and cross examine witnesses and otherwise request the production of evidence. The burden of proving misconduct by a preponderance of the evidence is placed upon the Disciplinary Administrator. The Committee may direct the submission of briefs.

At the conclusion of the hearing, the Committee must file a written report to the Board, together with the recorded transcript, briefs, findings, and a proposed order. If either party appeals from the Committee's recommendation, briefs may be filed with the Board. If desired, the matter may be orally argued to the Board. The Board must then conduct a review of the record and the briefs and enter its order.

D. The Recommendation

If the Board's order recommends either public censure, suspension, or disbarment, the order is filed immediately with the Supreme Court, which makes the final decision. The Board is powerless to enforce or effectuate such orders without Supreme Court review. The Board must submit

the entire record, including the hearing transcript, to the Supreme Court. The parties are required to file briefs in accordance with the Supreme Court rules for regular civil and criminal appeals; oral argument is available. It is only after review of this record by the Court that the order relating to the attorney's discipline is entered.

To insure the fairness of the proceedings, if any complaint is made against an attorney who is a member of the relevant Hearing Committee, the Board performs the duties of the Hearing Committee. Likewise, in proceedings against any member of the Board, the Supreme Court performs the duties of the Hearing Committee and the Board.

As with civil litigations, many of the above procedures may be lengthy or protracted before the issuance of a Hearing Committee report or a Board order. Thus, a need exists -- and a procedure has been formulated -- whereby either party can petition directly to the Supreme Court for review of the procedures and evidentiary rulings of the Hearing Committee.

E. Immediate Suspension

The Rules of Disciplinary Enforcement anticipate situations requiring immediate action against an attorney for protection of the public pending the completion of the full disciplinary process. One such situation exists when an attorney is convicted of a serious crime, such as a felony,

or when he is convictrd of certain other crimes including those relating to interference with justice, false swearing, fraud, deceit, misappropriation or theft.

Conviction of such a crime is conclusive evidence that disciplinary action is necessary. The sole issue for determination is the nature of the final discipline to be imposed. Such a conviction also requires immediate suspension, regardless of whether the conviction is based on a jury verdict or a plea of guilty, and regardless of whether an appeal is pending. In the event the conviction is reversed, the suspenion is lifted, but formal disciplinary proceedings must nevertheless continue to final disposition.

Can an attorney facing disciplinary charges avoid the consequences of his misdeeds by simply leaving the practice of law, thus leaving open the possibility of a future return to the profession? No! The Rules of Disciplinary Enforcement permit resignation of attorneys under disciplinary investigation only upon the free and voluntary admission by the attorney that he is guilty and has no defense to the charges. The attorney is then disbarred.

F. The Court's Order

When either disbarment or suspension is ordered by the Court, it is more than a mere order to that effect. The attorney must advise every client by registered mail that he cannot continue to represent him and the client must

immediately get new counsel. Opposing counsel must also be so advised, as must all state, federal or adminsitrative jurisdictions in which the attorney is licensed to practice law. Sworn proof that these notification requirements have been met must be filed with the Supreme Court by the suspended or disbarred attorney. Proof of compliance with these requirements is a prerequisite to any subsequent reinstatement.

The Bar Rules, however, do not rely solely on notification by the disbarred or suspended attorney. They also require the Board to publish notice of disbarment and suspension in all legal journals and newspapers in the State. The Board must also advise all courts within the State and, through the Attorney General, all administrative agencies.

G. Reinstatement

Disbarred or suspended attorneys can, under certain circumstances and procedures, be reinstated to the practice of law. However, in cases of disbarment, a minimum of five years must pass before application for reinstatement can be accepted.

Petitions for reinstatement are filed with the Supreme Court, served upon the Board, and then referred for hearing. As with the imposition of discipline, the findings and recommendations of the Hearing Committee -- and thereafter the Board -- are only advisory, and the final determination on

on reinstatement is made by the Supreme Court. In order to be reinstated, the attorney has the burden of establishing that he possesses the moral qualifications and legal skills required for admission to practice and that his reinstatement will not be detrimental to the integrity of the Bar, the administration of justice, or the public interest.

H. Incapacity

The Rules of Disciplinary Enforcement also anticipate circumstances where the need for protection of the public arises from the incapacitating illness, addiction to drugs or intoxicants, senility, death, disappearance, or judicially declared incompetence of an attorney, rather than actual misconduct by the attorney. Upon a finding by the Supreme Court that such a disability exists, an order is entered transferring the attorney to inactive status for an indefinite period of time during which the attorney is prohibited from engaging in the practice of law. As with suspension or disbarment, notice of the Court's action must be published in all legal journals or publications within the State. Likewise, all courts and agencies are also notified.

Reinstatement of the right to practice can thereafter only be granted by the Supreme Court upon a showing by the attorney that the disability no longer exists and that he is fit to resume the practice of law.

While the above procedures are designed to remove the disabled attorney from active status, it is essential that the interests of the clients of the disabled attorney are also protected. Thus, the Bar Rules provide for appointment by the Superior Court of an attorney to represent the disabled attorney and his clients. The appointed attorney, on behalf of the suspended attorney, exercises powers similar to those of a personal representative of a deceased person, but does so only in those matters specifically related to the practice of law.

I. Alternative Proceedings

Some complaints do not rise to the level of professional misconduct warranting formal discipline. Nevertheless, two other forums are available to review the reasons for a client's dissatisfaction.

If the matter involves a dispute concerning the fee charged by an attorney, it is referred to a Fee Arbitration Panel. If the allegations involve a grievance which is not amenable to either discipline or fee arbitration, it is referred to a Conciliation Panel. Both are more fully discussed in Section IV of this booklet.

IV. THE COMMITTEES OF THE ALASKA BAR

A. The Bar Rule Committees

1. The Committee of Law Examiners

The President of the Alaska Bar appoints, subject to ratification by the Board, the twelve members who comprise the Committee of Law Examiners. The terms are staggered, with each person serving for three years.

The Committee is charged with the responsibility for preparing and grading the Alaska portion of the Alaska bar examination. It is also responsible for complying with the re-grading procedures which have been more fully described in Section II of this booklet.

Reports are made to the Board at least twice yearly with respect to the results of each examination. Included are a statistical analysis and any recommendations which the Committee might have with respect to the form and content of the examination. Regulations adopted by the Board govern the operation of the Committee.

2. The Disciplinary Hearing Committees

There are four area hearing committees, two in the Third Judicial District, one in the First Judicial District, and one serving the Second and Fourth Judicial Districts. Each consists of six Alaska Bar members together with three

non-attorney members. All serve for three year terms which are staggered.

Three members constitute a quorum. They may only act with the concurrence of a majority of the sitting members. One of those participating must be a non-attorney member. Members failing to attend two consecutive meetings are replaced by the President.

To insure the fairness of the disciplinary hearing process, committee members are prohibited from acting in matters where they have personal interest or knowledge, or otherwise cannot function objectively. The circumstances and procedures considered by the committee member are almost identical to those which a judge must follow in disqualifing himself in court proceedings. Possible conflict situations include where the member is a party or has an interest in the proceeding; where he was not present at the hearing of the case; where he is a material witness; where he is related either by blood or affinity to the charged attorney; where, within two years, he has professionally represented the charged attorney; or where, for any reason, he feels he cannot render a fair and impartial decision.

The hearing committee has the power and duty to swear witnesses and to issue subpoenas; at the conclusion of an evidentiary hearing, the committee may direct the submission of briefs.

Thereafter, the Committee is required to submit a written report to the Disciplinary Board, together with its

findings, recommendations, proposed order, and the record.

Once the Board has acted on the Committee's recommendation, each participating member is advised of the Board's decision.

3. The Conciliation Panels

There are three conciliation panels serving the First, Third and combined Second and Fourth Judicial Districts. Each panel consists of three active members of the Alaska Bar appointed by the President and subject to ratification by the Board. They serve staggered three year terms.

The conciliation procedure was recently created to deal with disputes which do not fall clearly within the area of fee disputes or charges of ethical misconduct. The conciliator's function is to resolve such disputes between attorneys and their clients in an informal manner.

Although the procedure is informal its "teeth" arise from the provision that failure by any attorney to participate in good faith in an effort to resolve disputes submitted to conciliation may constitute independent grounds for disciplinary action.

If a resolution is reached, the Conciliator reduces it to writing for signature by all parties. In any event, the Conciliator submits a written report to the Disciplinary Administrator, including a summary of the dispute, its outcome, and the Conciliator's opinion as to the merits and good faith or lack thereto of the attorney party.

4. The Attorney Fee Review Committee

The Bar Association, under the Alaska Bar Rules, maintains an Attorney Fee Review Committee to settle fee disputes between attorneys and clients where such disputes have not been settled by statute or court rule or decision. The Committee handles any fee dispute against an Alaskan lawyer or a non-Alaskan lawyer who renders legal services in the State of Alaska.

There are five panels comprising the Committee: two in Anchorage, one in Juneau, one in Fairbanks, and one in Ketchikan. Each Panel consists of three attorneys plus three attorney alternates, and one non-attorney plus a non-attorney alternate. A chairman for each panel is appointed from the panel members by the President of the Board of Governors. Each panel member serves for three years. Three panel members constitute a quorum, one of which must be a non-attorney.

The client initiates a proceeding by filing a petition showing the efforts made to resolve the matter, submitting the claim to the Committee, stating the dispute, and requesting a remedy. If the Disciplinary Adminsitrator finds that reasonable efforts have been made to resolve the problem directly with the attorney, but without success, the petition will be accepted. Notification is sent to the client and the attorney that they have ten days to resolve the matter before it goes to the appropriate panel.

The hearing process requires full notice of time and place, and the right to present both written and oral evidence. The panel has the ability to subpoena witnesses. In the event the amount in dispute is $500 or less, the chairman of the panel sitting alone may decide the issue. If it is more than $500, a quorum of the hearing panel must hear the matter. If the client feels any member of the Committee can not be fair and impartial, he may request that that member not participate in the hearing. For similar reasons, a member may disqualify himself.

At the hearing, basic rights of due process are followed, with some relaxation of the rules of evidence. Any party may be called to testify. The hearings do not have to be recorded, but any party may request it be recorded, including the panel, the cost to be borne by the party making the request. The hearings are confidential unless the Superior Court orders the information released, although a summary of facts, without references by name, may be released by the Bar Association after the action has become final. A decision must be rendered by the panel within thirty days after the close of a hearing. An appeal may be taken from the decision to the Superior Court.

Forms and booklets explaining the Fee Review Committee's processes and procedures are provided to the clerks of court in every location in the State.

5. The Client Security Fund Committee

The Bar Association maintains a fund for the purpose of making reimbursement to clients of attorneys who have suffered non-insured losses of money, property, or other things of value as a result of a dishonest act by an attorney. A dishonest act means an act of embezzlement, wrongful taking, or conversion of money, property, or other things of value. The monies of the Fund come from the membership of the Bar Association, as it is mandated that a portion of the annual dues paid by each member be deposited to the Fund.

A client begins the procedure by filing a form with the office of the Alaska Bar Association. The client may not be a spouse, relative, partner, associate, employee or insurer of the lawyer, a surety or bonding agency, or a governmental entity or agency. The sworn application contains the name and address of the lawyer, the amount of the client's alleged loss, the dates of the loss and discovery of the loss, the name and address of the client, a statement as to the facts, an agreement that the client will be bound by the Alaska Bar Rules concerning the Fund, and a statement that the loss was not covered by insurance or bond.

The Committee of six members is appointed by the President, subject to ratification by the Board. Each member serves for three years, and the Chairman is appointed by the President. Once an application is filed, an attorney appointed to aid the Committee will determine if, on its face, a legitimate claim for loss has been made. The claim will be denied only if both the appointed attorney and a majority of the Committee agree that the claim is not valid on its face. Otherwise, the claim goes to the Committee for a final hearing.

The Committee hears evidence, administers oaths, issues subpoenas and, with prior approval, hires experts to aid in its investigation. Because the technical rules of evidence are relaxed, the Committee may consider any previous disciplinary proceedings against the attorney, any criminal

proceedings and any civil proceedings involving the lawyer. Testimony is recorded but is only transcribed in cases where the client's claim is approved by the Committee. The determination of the Committee is advisory to the Board. The Board makes the final decision as to whether and how payment will be made.

The loss to be paid any one claimant is the lesser of (a) $10,000 or (b) 10% of the Fund at the time the award is made. The total amount of all claims paid in one year shall not exceed 50% of the total amount in the Fund as of January 1 of that calendar year.

Before funds are paid to the claimant, he must assign a small amount of the claim to the Bar Association so that the Bar may legally sue the attorney for recovery of all amounts paid to the client from the Fund. If the Bar Association chooses to sue the lawyer on this assigned claim, it must give written notice of the suit to the claimant in case the claimant wishes to join such an action to recover any loss in excess of the amount awarded to the client from the Fund.

6. Admission Waiver Programs

The Bar Association has three admission waiver programs allowing students and attorneys in special job classifications to perform certain legal services within the State of Alaska. These include:

a. Legal Intern Program

An applicant for the legal intern permit files for a permit on forms set forth in the Bar Rules, stating that he is either (1) a student enrolled in an accredited law school who has completed one-half of his course work or, (2) a law school graduate from an accredited law school who has never failed a bar examination or who has failed and then passed a bar examination. If an applicant has been admitted to another bar, the person must show that good standing has been maintained.

Once a permit is issued, the legal intern may do the following:

1. Appear in any District or Superior Court proceeding, to the extent permitted by the judge, if the lawyer of the client is present and able to supervise and has filed the necessary form with the court and the Bar Association;

2. Appear in District Court in a number of matters, both civil and criminal, without the supervising attorney present, provided the supervising attorney has filed a form and certifies the intern is competent, the client gives written consent, or a governmental body has granted approval, and the judge or magistrate agrees.

The permit is good until one of the following events occurs:

1. Six months have passed (the permit is renewable once for six more months);

2. The intern fails to take the first Alaska Bar examination for which he is eligible;

3. The intern fails to pass any bar examination.

b. Alaska Legal Services Corporation

A person employed by or associated with Alaska Legal Services Croporation may receive permission to practice law in Alaska, for not more th wo years, if the attorney is admitted to practice law -- or is eligible to be admitted to practice law -- in another state, territory, or the District of Columbia, and has not failed the Alaska bar examination. The permission to practice shall be withdrawn if the person at any time fails the Alaska bar examination or leaves the services of the Alaska Legal Services Corporation. The permission is only good for representation of Legal Services clients, and the person is subject to the disciplinary rules of the Alaska Bar Association.

c. United States Armed Forces Expanded Legal Assistance Program

A person who is an active duty member of the United States Armed Forces assigned to the Judge Advocate General Program, or the United States Coast Guard, may receive permission to practice law in Alaska for not more than two years if the attorney is admitted to practice -- or is eligible to be admitted to practice law -- in another state, territory or the District of Columbia, has graduated

from an accredited law school, and has not failed the Alaska bar examination or does not leave military service.

There is an advisory council set up to establish rules and regulations for conducting the Expanded Legal Assistance Program in Alaska. It is made up of one representative from each participating military service and one representative from the Alaska Bar Association.

B. The Substantive Law Committees

There are ten standing committees of the Alaska Bar Association which focus on substantive law. They are:

Administrative Law
Business Law
Criminal Law
Environmental Law
Family Law
Natural Resources Law
Probate Law
Real Estate Law
Taxation Law
Tort Law

Each committee is responsible for monitoring the law, suggesting revisions, and reporting annually to the membership on legal developments in the area of law studied by the committee.

In addition, the committees are encouraged to submit articles in their fields of expertise to the Bar Rag, and to aid the Continuing Legal Education Committee in the presentation of seminars.

The committees, when necessary, are requested to

advise the Board on substantive issues, such as the tax status of the Alaska Bar Foundation.

While the committees cannot speak on behalf of the Alaska Bar Association without prior Board approval, several committees regularly monitor and testify concerning legislation both in Alaska and in Congress.

The Board of Governors has, on occasion, and at the request of some committees, taken positions and forwarded those views to the appropriate authorities. Recently, at the behest of the Criminal Law Committee, the Board supported the formation of a blue ribbon commission to study Alaska's drug laws. In response to a request from the Taxation Law Committee, the Board went on record supporting the carry-over basis repeal legislation now pending before Congress.

C. The Procedural and Service Committees

1. Bar-Bench Press Committee

There are nine members on the Bar-Bench Press Committee, three located in Southeastern, three in Southcentral, and three in the Interior. Its purpose is to prevent, where possible, and respond, where necessary, to unjust or inaccurate criticism of the courts, judges, or the system of justice in general.

The Committee is available to the news media as a

means of obtaining information concerning judicial activities, and court processes and other technical or legal information about the administration of justice. Furthermore, it has responsibility for encouraging broad dissemination of information about noteworthy achievements and improvements within the justice system, as well as suggesting means by which judges and lawyers can improve the public image of the legal system.

2. Bar Polls and Elections Committee

The function of this nine member committee is to prepare, at the direction of the Board, polls of the membership on any given number of subjects. Past work has included the evaluation of persons seeking judicial appointments, economic surveys, and subjects of priority interest to members of the Bar. Currently, a pro bono activity poll is being conducted.

In addition to formulation of requested polls, the Committee compiles the results of the poll and presents them to the Board.

The other major responsibility of this Committee is to tabulate the results of the yearly elections to membership on the Board of Governors and the Alaska Legal Services Croporation Board. In addition, it conducts advisory opinion polls for use by the Board in its appointment of lawyer

representatives to the Judicial Council, Judicial Qualifications Commission, and Ninth Circuit Judicial Conference.

3. Civil Rules Committee

The Alaska Rules of Civil Procedure, promulgated by the Supreme Court, are the central focus of this nine member committee. Working both independently and at the request of the Court System, the Committee recommends to the Supreme Court additions, deletions, and modifications to the rules by which law is practice in this State.

4. The Continuing Legal Education Committee

One of the most vital committees of the Alaska Bar is the Continuing Legal Education (C.L.E.) Committee, which is responsible for presenting substantive education programs in order to keep Alaskan lawyers abreast of new developments in the law.

The twelve member committee has three geographic locations, Southeastern, Southcentral and Interior, so that the types of programs desired by the various regions of the State can be developed.

Five to nine programs per year are offered. In the recent past, these have included estate planning, products liability litigation, estate management, the new rules of

evidence, the new criminal code, and the new bankruptcy act.

Some programs are given in only one major population center while others are "piggybacked" to two or more cities or video-taped for state-wide distribution. In addition, the C.L.E. Committee has responsibility for planning and executing a three day mid-winter meeting of the general membership devoted to legal education.

A tape library of significant programs is maintained for members and for the public. Both audio and video tapes can be rented by individuals or groups at a nominal cost. Also, written source materials on current programs are available to those unable to attend the live programs.

5. Ethics Committee

The nine member Ethics Committee issues opinions, based on actual circumstances but phrased in hypothetical terms, in order to give guidance to Association members in complying with the Code of Professional Responsibility.

An opinion may be requested by any member in good standing who is concerned with proposed conduct. Any other person desiring an ethics opinion can request one through the Board of Governors.

No ethics opinion is published without approval of the Board which thereafter directs its distribution by publication in the Alaska Bar Rag, circulation to all Law Libraries, and mailing to the Supreme Court.

6. Insurance Committee

The nine member Insurance Committee was recently established to monitor the status of malpractice insurance coverage within the State of Alaska, as well as to recommend to the Board any changes or additions in the group life, accident, and health plans which are offered to Association members and their employees.

7. Law Related Education Committee

The purpose of this nine member committee is to present programs and publications to the community at-large which will aid in an understanding of the law and the legal system. Its activities have included mock trials in the classrooms, as well as a series devoted to the education of the owners of small businesses as to their rights under the law.

Preparation of pamphlets on general areas of the law for distribution to the public is a project currently being considered.

8. Legal Educational Opportunities Committee

Another standing committee of the Alaska Bar is the Legal Educational Opportunities (L.E.O.) Committee. Its responsibilities include oversight of WICHE funds for legal education, administration of the recently established Bar

Association scholarship program, and tutoring assistance to failing bar examinees. In addition, the L.E.O. Committee is aiding a special committee to review the bar examination for any potential racial or ethnic bias. The Committee also makes recommendations to the Association as to how to encourage minority students to pursue a legal career in Alaska.

9. Paralegal Committee

After two surveys of the membership, the Paralegal Committee accumulated information for dissemination to interested persons with respect to skills required for paralegals. In addition, it offers continuing legal education for attorneys who work with paralegals. Associate membership in the Committee is offered to paralegals.

Perhaps this Committee's most important function is the liaison which it provides between the legal profession and the paralegals active within the State of Alaska. Also under investigation is a program for certification of paralegals.

10. Statutes, Bylaws and Rules Committee

This standing committee of nine persons is charged with responsibility for proposed revisions of the statutes, bylaws, and rules which govern the Alaska Bar. One of the most active committees, its major projects over the past

year or so have included full scale revision of the Disciplinary Rules, a comparison of those rules to the model rules of discipline, a study of the issues of solicitation and advertising, and a review of the Code of Professional Responsibility.

D. The Special Committees

1. Advertising Committee

At its October 1979 meeting, the Board authorized creation of a special committee to formulate regulations pursuant to which attorneys admitted to practice in Alaska may advertise their services.

The necessity for this seven member committee was generated by changes to the Code of Professional Responsibility which the Board of Governors recommended and which the Supreme Court adopted.

Those provisions allow an attorney to advertise in the print media, or on T.V. or radio, and to include such information as his name, address, phone number, the fields of law to which his practice is limited, and his professional memberships and associations, together with certain statements regarding fees.

2. Alternative Disputes Resolution Committee

Two of the most serious problems facing the American system of justice are the cost of litigation and the delay in proceeding to trial. As a result, the Board authorized the creation of a committee to investigate and to recommend alternative means by which to resolve disputes. Its goal is a speedy, inexpensive system by which minor litigation can be handled outside the traditional system. Included in its study are such concepts as neighborhood dispute centers and the vehicle of arbitration.

The committee, which includes non-lawyers, will submit its recommendations to the Board by March 1980. It is anticipated that a pilot program will be in operation not later than July 1980.

3. Examination/Admission Review Committee

After approximately six years experience with the Alaska Bar examination as presently formulated, the Board of Governors decided that a thorough review was in order. As a result, in the spring of 1979, a three member committee was appointed to undertake the project.

Included within its mandate were studies with respect to use of the multi-state exam, the efficiency of the California essay exam, and potential cultural bias.

Also to be examined is the weight accorded the Alaska essay portion, any differences in the degree of difficulty of the various segments, and queries which have been raised as a result of appeals by failing applicants.

Also under consideration is the question of reciprocity, re-examination for attorneys after a long period of inactive status, and various statistical correlations.

4. Historians of the Alaska Bar

As one of the most unique bar associations, populated through the years by many colorful individuals, it was determined that before the incidents and events became lost, a group would be created to preserve the history of the Alaska Bar.

Judge James Hornaday chairs this group, which has representatives from all parts of Alaska. Besides gathering the information for future publication, the Committee will present programs at the annual meeting and contribute articles to the Alaska Bar Rag.

Another project in which it is engaged is the preparation and circulation of a questionnaire to obtain information about each attorney's professional and civic activities. This is being done so that a complete profile of each member can be obtained for placement in the permanent files.

5. Prepaid Legal Services Committee

This special committee is studying the possibility of starting a prepaid legal services plan which would be sponsored by the Alaska Bar Association. Its initial report is due to the Board in March, 1980.

As contemplated, the Bar Association would sponsor a plan where the public could purchase insurance under which future legal services would be provided. The Committee will make recommendations as to feasibility and structure, as well as investigate the possibility of obtaining the necessary underwriting.

6. Risk Management Committee

As a result of the growing nation-wide crisis in malpractice coverage, a special committee was appointed in March, 1978, to determine what alternatives were available to the Alaskan attorney to secure malpractice coverage adequate to protect both the lawyer and the public.

Pursuant to a resolution passed unanimously at its 1978 annual business meeting, the special committee collected loss data from all available sources, met with the State's Insurance Commissioner, contacted all carriers writing attorney coverage in the country, and consulted with the expert who assisted the Law Societies to set up self-insurance plans in Canada.

Aware that the number of malpractice carriers had decreased in 1975 from twelve (12) to two (2), and also aware that the number of carriers had increased to only five (5) by 1978, the Committee sought a comprehensive self-insuring alternative that might be competitive in cost and coverage with available market alternatives. A four page comparative explanation was published in the Bar Rag, and a report was given to the membership at the 1978 annual meeting. The Committee recommendation was for the Association to sponsor the INAX coverage for Alaska lawyers. The membership unanimously adopted the recommendation.

One advantageous feature of the INAX proposal was its recognition of, and efforts toward, loss prevention. In cooperation with the Association, INAX presents loss prevention seminars to lawyers, paralegals, and office administrators. Such seminars present information on current losses and on avoiding malpractice that may result from poor law office management. Additionally, the Continuing Legal Education Committee is incorporating loss prevention information into seminars on substantive law. The goal of the Association is to identify and to prevent errors and omissions that result in harm to the client.

7. Specialization Committee

The Bar Association's Specialization Committee has

been studying specialization and making annual reports to the Board of Governors since 1976. The task facing such a committee ranges from defining specialization to establishing criteria and procedures for identification of specialties, determining the skills and experience desirable to certify a specialist, and establishing procedures for recertification. Guidance is finally available from the American Bar Association, which has recently published a model plan for specialization procedures. The Alaska Bar Association's Committee on Specialization is charged with the task of presenting its proposed plan to the Board in March, 1980, and to the membership at its annual meeting in June, 1980.

Specialization requires procedures to identify, test, and certify those attorneys who devote substantial time to a specific area of law so that their experience, training, and continuing legal education can be relied upon by the public in its search for expertise to handle a specific legal problem. Specialization certification also permits the certified attorney to advertise his specialty to the public.

The difficulty with implementation of specialization in Alaska includes the fact that over 50% of the practicing attorneys in Alaska have been in practice five years or less. Thus, they lack the experience relied upon

by most jurisdictions to certify experts in any field of law. A second equally important factor is that the majority of lawyers in Alaska consider themselves general practitioners who do not specialize in any one field of law, but who are available to render legal services in almost every field of law, where their clients need legal services. In Alaska, as elsewhere, specialization will become a more realistic and meaningful way for the public to identify lawyer expertise.

8. Unauthorized Practice Committee

This committee was formed as the result of what many members believe to be the unauthorized practice of law in Alaska by non-admitted lawyers. It is charged with investigating the nature and extent of practice in Alaska by non-admitted attorneys and with recommending remedial action if necessary. The Committee will report to the Board in March of 1980.

V. SPECIAL PROJECTS

A. Competent Representation of Indigent Criminal Defendants Where the Public Defender Has A Conflict of Interest

Prior to establishment of the Public Defender Agency in 1969, indigent criminal defendants were represented by court-appointed counsel who were compensated at rates below those ordinarily charged paying clients. Even with establishment of the Public Defender Agency, in cases were two or more defendants were charged with criminal violations arising out of the same set of circumstances, private practitioners were appointed by the court to represent the defendants unable to be represented by the Public Defender because of a conflict of interest between the several defendants. The rate of compensation remained well-below the average rate paid by clients who had resources to pay their chosen attorney.

In fiscal year 1979, the vast number of defendants needing appointment of private counsel reached crisis proportions. Even though the rate of compensation was only $40.00 per hour, a supplemental appropriation to meet costs was sufficient to pay only seventy-five (75) cents on every dollar owed to appointed counsel. Consequently, the Court

put into effect a maximum fee schedule. The Anchorage Superior Court issued an order placing each private practitioner on a mandatory appointment list similar to the list already utilized in Fairbanks, and appointments were considered on a similar basis for every major city in Alaska.

Because of wide-spread concern with the quality of representation that could result if attorneys were appointed to represent criminal defendants even when the attorneys lacked training and experience in criminal law, an ad hoc, voluntary committee was formed, with representatives from the Bar Association, Department of Law, Court System, and Public Defender Agency to study the problem and make recommendations.

The Court accepted the Committee's recommendation that contracts be let to represent conflict criminal defendants in all areas of the State. Bids were solicited from the entire State and contracts let for a lump sum price for competent representation from October, 1979, through January, 1980. In January, the contracts were re-let for the period through June 30, 1980.

As a result of the work of the Ad Hoc Committee, the Chief Justice has appointed a similar committee to study and to recommend to the Court, by June, 1980, procedures for all court-appointed counsel cases.

B. Institutional Advertising

In an effort to educate the public with respect to its legal rights, the Alaska Bar is sponsoring, state-wide, a series of public service announcements (PSA's) on television. The current group provided information with respect to wills, juvenile rights, and consumer complaints.

The tapes, which were provided free of charge by the Virginia Bar, will be replaced with others as sources are located.

C. State-wide Lawyer Referral Service

In May, 1978, a state-wide referral service was established by the Alaska Bar Association. Before that date, a similar service had been provided in Anchorage under contract with the Anchorage Bar Association. The service provides the names, addresses and telephone numbers of three attorneys practicing law in the subject area of the caller's legal problem. The caller is referred to three lawyers practicing in the geographical area where the caller resides or needs representation. The service is free to the public.

Approximately 4000 requests for lawyers are made to the service each year. This averages out to be over fifteen (15) calls per day. About one-third of the requests

are for problems in the family law area. The second largest number of requests concern commercial law problems. Representation is most often requested in the following areas: family law, commercial, negligence, criminal, traffic, consumer, administrative agencies, landlord/tenant, and wills/estates/trust.

Although the cost of the service is partially borne by all members of the Association through the annual dues, lawyers who participate in the referral service are charged an annual fee of $35.00. Each lawyer may register in up to five areas of law in which referrals will be accepted. In addition, each lawyer may indicate areas in which pro bono clients will be accepted. The lawyer must agree to charge only $25.00 for the first half hour consultation with the referred client and must agree to keep at least $50,000 malpractice coverage in effect at all times.

The availability of the referral service continues to be advertised in the two Anchorage papers, the Fairbanks Daily News-Miner and the Tundra Times. The only area of the State not covered by advertising is Southeastern, which, to date, has shown little or no need for, or response to, the Lawyer Referral Service.

D. Mandatory Continuing Legal Education

A subject of recent examination in the legal profession is mandatory continuing legal education (CLE). In the few states in which bar associations have adopted mandatory CLE, the number of required hours range from three (3) hours per year to fifteen (15) hours over a three year period.

At its annual meeting in June, 1978, the Alaska Bar Association moved that a study of mandatory CLE be undertaken by the Association, with a report to be given to the membership at the 1979 annual meeting. As a part of that study, the CLE Committee surveyed the membership in the spring of 1979. The results of the poll indicated that a majority of the responding attorneys favored mandatory CLE in Alaska. In addition, the poll also revealed that while most law firms do not require their members to attend CLE courses, nearly all firms pay the cost of attendance at CLE programs. A vast majority of the attorney members have attended CLE programs during the past three years, with many of them going Outside for such programs. Most responding attorneys rejected the concept of granting a waiver of CLE requirements based on geographical location of the attorney, but do support giving CLE credit for attendance at video-taped CLE programs presented in various geographical areas.

In June, 1979, the membership in attendance at the annual meeting failed to pass a resolution that would have required fifteen (15) hours of continuing legal education per year. The floor discussion of the resolution indicated that rejection was based upon the lawyers' recognition that the majority of attorneys in Alaska do attend CLE seminars on a regular basis. Therefore, making such attendance mandatory was not necessary or desirable.

E. Pro Bono Activities of the Alaskan Lawyer

"Pro Bono" work by lawyers is the giving of legal services without compensation. It may also include the rendition of such services at substantially reduced rates. In Alaska, lawyers are required by their Code of Professional Ethics to perform pro bono work for their communities. This ethical obligation is typically performed not only by handling individual matters for indigent citizens at no cost, it is also performed for voluntary citizen groups; non-profit arts, music and theater groups; charitable groups, such as United Way or the YMCA; and church boards and religious organizations.

The Committee on Bar Polls and Elections is currently conducting a survey of lawyers in Alaska in order for the Association to update its information and to more concisely identify those areas of the community which receive

pro bono legal work and the amount of services received.

F. Typical Alaskan Lawyer and Law Firm

The results of a survey of the Bar Association in early 1978 reveal the following profile of the legal profession in Alaska:

The "typical" Alaska Lawyer has practiced law for 6 years in the Third Judicial District in a community of over 5000 population. He is probably a partner in a firm. If not a partner, then the typical lawyer is either a sole practitioner or an associate. His annual income, before taxes, is $37,823. Twenty-two percent (22%) make $25,000 or less, 33% make between $25,000 and $40,000, 36% make between $40,000 and $70,000; 9% make between $70,000 and $125,000, and 1% make over $125,000. He is among the 62% of all attorneys who have professional insurance.

To earn income, the typical attorney works 47.5 hours per week, of which 70% is charge-time to clients. Twenty percent (20%) of his time is spent on administration or non-chargeable office activities; four percent (4%) is spent on pro bono legal work. Regardless of his working day, an average of 7 hours of work per day is charged to clients. If a salaried lawyer, 95% of his work hours are spent on work for his employer.

For the past five years, the typical lawyer has spent an average of forty-five (45) hours per year on community service. Thirty-five percent (35%) of his colleagues have spent from 100 to more than 200 hours on community service. During the same period, the typical lawyer -- and 60% of his colleagues -- spent up to 70 hours per year on non-paid community service. The other 40% devoted between seventy-one (71) and 200 hours per year on non-compensable community service. The typical lawyer spends twenty-nine (29) hours per year on professional activities, continuing legal education, and on professional boards, committees, and fee arbitration panels.

The typical lawyer charges $60.00 per hour for his services. Fifty-six percent (56%) of his colleagues charge between $40.00 and $70.00 per hour, 20% charge between $70.00 and $80.00, 15% charge between $80.00 and $100.00, and .2% charge between $100.00 and $130.00 per hour. The attorney's highest percentage of income is most likely derived from general practice, as is that of 30% of his colleagues. (Note: 34% of the responding attorneys did not indicate any field of law as representing a highest source of income.) The typical lawyer is paid $70.00 per hour by those clients who pay a fixed fee or retainer. (Note: 55% of the responding lawyers did not indicate that they were paid fixed fees or

retainers, and an additional 16% indicated they did not know how much per hour they received for work on a fixed fee or retainer basis.) If the typical lawyer charges a flat daily rate, he is paid $59.00 per hour. (Note: 64% did not indicate they were ever paid on a daily basis, and 18% of those who said they were so paid did not know to how much per hour the daily fee worked out.)

The "typical" Alaskan Law Firm has only one principal office from which clients are served by two lawyers, .6 associates, and 2.5 secretaries/receptionists. A typical firm spends 48.5% of its gross income on overhead expenses. Fifteen percent (15%) of the firms spend between 10% and 30% on overhead, 39% spend between 31% and 50%, 43% spend between 51% and 70%, and 3% spend over 70% on overhead. In other words, 82% of the law firms in Alaska have overhead expenses which run between 31% and 70% of their gross annual income.

Forty-eight per cent (48%) of a typical firm's overhead is paid out for support of staff, with 23% being paid to secretaries/receptionists. Nine percent (9%) is paid to associates, 11% is paid to other employees, and 5% is paid for fringe benefits for employees. Office rent consumes 14% of the overhead expenditures, supplies and postage cost 6%, equipment rental costs 7%, telephone costs 6%, library and subscriptions costs 6%, and 13% is paid for other miscellaneous items.

Results of the survey demonstrate interesting comparisons between the typical lawyer who practices in the First, Third, and Second and Fourth Judicial Districts.

In the First District, the typical lawyer:

1. Earns $35,000 - $40,000 net per year
2. Works 41 - 45 hours per week
3. Charges $71 - $80 per hour
4. Pays 41% - 50% of income for overhead expenses: rent (10%-19%); salaries for secretaries/receptionists (31%-35%)
5. Devotes 61 - 70 hours per year to community service
6. Spends 21 - 30 hours per year on professional activities
7. Spends 41 - 50 hours per year on pro bono work

In the Third Judicial District, the typical lawyer:

1. Earns $35,000 - $40,000 net per year
2. Works 46 - 50 hours per week
3. Charges $61 - $70 per hour
4. Pays 51% - 70% of income for overhead expenses: rent (10%-19%); salaries for secretaries/receptionists (20%-25%)
5. Devotes 61 - 70 hours per year to community activities
6. Spends 21 - 30 hours per year on professional activities
7. Spends 81 - 90 hours per year on pro bono work

In the Second and Fourth Districts, the typical lawyer:

1. Earns $40,000 - $45,000 net per year

2. Works 46 - 50 hours per week
3. Charges $71 - $80 per hour
4. Pays 41% - 50% of income for overhead expenses: rent (less than 10%); salaries for secretaries/receptionists (10%-19%)
5. Devotes 41 - 50 hours per year to community activities
6. Spends 31 - 40 hours per year on professional activities
7. Spend 91 - 100 hours per year on pro bono work

VI. PUBLICATIONS

A. The Alaska Bar Rag

The official publication of the Alaska Bar is the Bar Rag, which appears on a monthly basis. Its purpose is to inform members of Association activities, to report trends and developments in the profession, and to entertain. It is provided to all active and judicial members of the Association at no cost. Responsibility for the publication rests with a seven member Board of Directors, appointed by the Association President for one year terms.

Actual production of the publication is carried out by the Editorial Board.

B. UCLA/Alaska Law Review

The Alaska Bar publishes, semi-annually, for the benefit of its members and at no additional cost, the UCLA/Alaska Law Review. Strong emphasis is placed on topics related to the laws of Alaska and contributions to the Review by members of the Bar are actively solicited.

The Law Review is edited by law students at U.C.L.A., and includes articles by practicing attorneys, law professors, and notes and comments by students.

Two members of the Alaska Bar serve as a liaison between the staff of the Law Review and the Board of Governors, which is charged with responsiblity for the publication.

VII. ADJUNCT INVOLVEMENT

A. The Alaska Bar Association Insurance Trust

On March 11, 1976, the Board of Governors established an insurance trust fund for the benefit of Association members and employees. Its purpose is to offer group life, group accidental death and dismemberment, and group hospitalization, medical and surgical, disability, and related insurance benefits to any member who desires them.

The Fund is administered by three Trustees, who are elected annually. The trustees are also members of the Board.

At the present time, the Trust offers medical and life insurance plans to members of the Association. Attorneys and their employees are able to enroll in the group health insurance program. A $50,000 group life insurance plan (with an optional term life plan) is offered to attorneys only.

B. The Alaska Bar Foundation

In October, 1972, the Board of Governors established the Alaska Bar Foundation for the purpose of fostering and maintaining the honor and integrity of the profession, improving and facilitating the administration of justice, promoting the study of law and continuing legal