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No Continuances

In November 1979, the Supreme Court advised Anchorage Superior Court administration that additional judge time would be available during January, February, March and April, 1980 to alleviate the backlog of civil cases set for trial in Anchorage. First taking cases that had already been scheduled to begin on a specific date or during a specific week during those months, calendaring assigned cases to the visiting judges. At trial setting conferences beginning week of November 26, additional civil cases were assigned to the visiting judges. Each such assignment was stated on the trial setting conference order. The trial date was assigned for a specific week not a particular date.

In further attempts to alleviate the backlog, calendaring also scheduled settlement conferences for cases already scheduled for trial. During the three week period of December 17 through January 4, Judge Karl Johnstone held 39 settlement conferences which resulted in 13 final settlements. Additionally, some settlement conferences were scheduled before Judges Moody, Lewis and Singleton.

On December 22, the Supreme Court temporarily suspended pertinent portions of Rule 40 provisions to permit calendaring to remove trailing cases from the calendar. The attorneys could also request removal from the trailing calendar. Due to the holidays, calendaring began eliminating trailing as of January 3, 1980. At that time, 44 civil cases were trailing. The longest trailing case had originally been set to go to trial on October 19. According to calendaring personnel, the case was trailing because counsel could not agree on a trial date. As of January 3, the average trailing time for a 3 to 4 day trial was 10 days. Two cases which were 10 day trials had trailed from November 5 and 7 until they were reset January 3rd.

Counsel for civil cases trailing as of Jan. 3 were given choices of either going to trial January 7th or having another trial setting conference to set the cases for trial for a week certain during February, March or April when visiting judges were available.

As of January 10, calendaring had scheduled 39 civil cases for trial through April 14th. The cases will be tried by visiting judges Schulz, Craske, Hodges, Blair, Taylor, Steward, Van Hoomissen, Cooke and Compton. Additionally, 147 civil cases had been set for trial before regular Anchorage Superior Court Judges for the same period. Calendaring personnel estimated that an additional 200 man-hours of civil trial time will be scheduled through April 16th.

Judge Thomas Schulz of Ketchikan is the first visiting judge scheduled for trials. Of the 10 civil cases assigned to him for the two weeks beginning January 7 and January 4, 7 settled, 2 were ready to go and 2 asked for continuances. The two continuance requests were for trials scheduled to last 3 days each.



Chief Justice
Jay A. Rabinowitz

1981 Mid-Winter CLE Seminars to be on Mexico Cruise Ship

At its December, 1979 meeting the BOG voted to hold the Alaska Bar Association mid-winter CLE seminars on the T.S.S. Fairsea. The 10 day cruise will probably depart Los Angeles during the second week of February, 1981 and return to that city. The five probable ports of call will be Cabo San Lucas, Mazatlan, Acapulco, Zihuatanejo and Puerto Vallarta. The CLE seminars will be presented on the days when no ports are made.

The projected costs including registration, round-trip air fare (Anchorage-L.A.) and the cruise, range from a possible low of \$900 per person to a high of \$2500. The first price is four in a cabin on lower decks and the top price is two in the most luxurious cabin. The average accommodation will probably cost about \$1300 per person.

The costs will include access to everything on board except alcoholic beverages and gambling facilities. Negotiations are underway to secure air rates for Southeastern attorneys at a rate favorable to the Anchorage-L.A. fare.

The procedure in Anchorage is that only the presiding judge or his designee can grant continuances. The policy on granting continuances is that because counsel in the trial setting conferences agree on the assigned date or week of trial, only extreme emergencies are grounds for continuances unless counsel makes

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Rabinowitz named "Citizen of the Decade"

The Anchorage Daily News has designated Alaska Supreme Court Chief Justice Jay Rabinowitz as "Citizen of the Decade." The Daily News, which is Alaska's largest morning newspaper, asked readers in December 1979 to send in their nominations for this honor. From the nominations, the editorial board of the newspaper voted to select Chief Justice Rabinowitz. According to the Daily News: "The nominees were considered in terms of their accomplishments, character, and so on, the panel evaluated the degree to which nominees represented the dominant trends of the state in the past decade and determined that each finalist should have demonstrated a positive impact on the state."

Daily News

The following is excerpted from Daily News reporter Don Hunter's story announcing the selection of the Chief Justice:

As the decade of the '70s rolled in, Jay Rabinowitz was 42 years old, and already a five-year veteran of the state's highest court. As the '80s begin, he is embarking on his second three-year term as chief justice.

Barrage of Criticism

A barrage of critical decisions faced the Supreme Court, and Alaska, in the intervening ten years. The Fairbanksian's influence was keenly felt in many of the most important, though his name usually was shadowed by the issues that shaped Alaska: the Beirne homestead initiative, limited entry, local hire, Molly Hootch and rural education, Hickel and Hammond and election challenges.

A jurist—he lauds the state's justice system for its freedom from politics—and a self-described "team player," Rabinowitz did not often seek the glare of publicity. One acquaintance describes him as "a gentleman in the Renaissance sense, in the classical sense."

Hair

A good starting place to review Rabinowitz' place in the '70s might begin with a case issuing from a

Fairbanks junior high school, centering on an issue that, in retrospect, hardly seems the type to generate a landmark decision.

Michael Breese, a seventh-grade student at Main Junior High School, was expelled because his hair was too long to meet school regulations. After a Superior Court judge rejected the appeal, Breese took the case to the Supreme Court.

Writing for the majority in 1972, Rabinowitz said, "The United States of America, and Alaska in particular, reflect a pluralistic society, grounded upon such basic values as the preservation of maximum individual choice, protection of minority sentiments, and appreciation for divergent lifestyles.

"The spectre of governmental control of the physical appearances of private citizens, young and old, is antithetical to a free society, contrary to our notions of a government of limited powers, and repugnant to the concept of personal liberty..."

The Breese decision established an Alaska precedent requiring the state to show "a compelling interest" before infringing upon individual liberties. Three years later, the Supreme Court returned to the issue of privacy, this time in a controversial case that called up another basic issue - the time-honored tradition that a person's home is his castle, within bounds.

Marijuana

Irwin Ravin had been arrested and charged with possession of marijuana, challenging the state's drug statutes.

Again writing for the majority, Rabinowitz noted, "In Alaska we have also recognized the distinctive nature of the home as a place where the individual's privacy receives special attention. This court has consistently recognized that the home is constitutionally protected from unreasonable searches and seizures, reasoning that the home itself retains a protected status under the Fourth Amendment and Alaska's constitution distance from that of the occupant's person..."

"Our territory and now state has traditionally been the home of people who prize their individuality and who have chosen to settle or to continue living here in order to achieve a measure of control over their own lifestyles which is now virtually unattainable in many of our sister states."

Bush Schools

At about the same time, in what he characterizes as "one of my losses," Rabinowitz leapt to the defense of the right of students in Bush villages to attend school in their home villages.

In a dissenting opinion, Rabinowitz argued that a section of the state constitution providing that "The legislature shall by general law establish

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Alaska Supreme Court Issues 2000th Opinion

On December 21, 1979, the Alaska Supreme Court issued its 2000th opinion, affirming the two-year prison sentence given to Delbert H. Holmes of Anchorage, convicted of assault with a dangerous weapon.

The Supreme Court was organized in the fall of 1959. It issued its first opinion one day short of 20 years ago, December 22, 1959. That first opinion, by Justice John H. Dimond, discussed the power of the Alaska Housing Authority to condemn private property for redevelopment projects. Justice Dimond retired from the court in 1971, but is annually recalled to active service on the court and continues to carry a substantial caseload.

While it took more than 14 years, until February, 1974, to reach the 1000th opinion, the second thousand have been published in slightly less than six years.

During 1978 and 1979, the court has published more than 230 opinions each year. By comparison, 47 opinions were published in 1965, 72 in 1970, and 122 in 1975.

Few appellate courts in the country write as many opinions. Some with more judges write fewer.

The total number of cases filed with the Supreme Court has similarly skyrocketed in recent years. It took the court eight and a half years, until May 1968, to reach filing No. 1000. The most recent thousand, from No. 4000 in April, 1978, to No. 5000 in November, 1979, took about a year and a half. The total number of filings for 1979 will probably be between 625 and 650.

The number of filings substantially exceeds the number of published opinions because a large number of cases are disposed of without the necessity of a written opinion. Many cases are settled by the parties after they are filed in the Supreme Court but before they are decided. Also, the court is empowered to deny petitions for review of non-final orders of the Superior Court without an opinion or other statement of reasons, and does so in the majority of such cases.

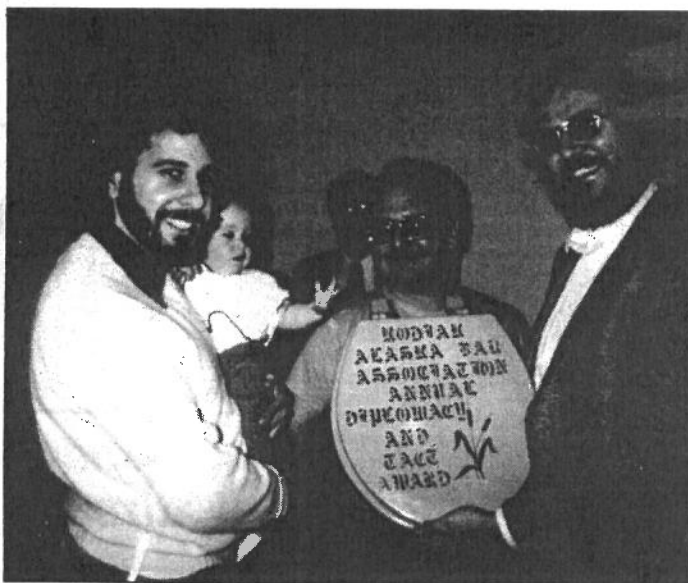
The membership of the Supreme Court was increased from three justices to five in 1968. It has remained at five since that time.

Growth in the court's workload in the past decade, and resultant delays in the decision of cases, have prompted the court's support for pending legislation to create an intermediate Court of Appeals to review certain classes of trial court decisions, subject to discretionary review thereafter in the Supreme Court. The bill has passed the state Senate and awaits action in the House of Representatives at the forthcoming session.

No Continuances

[continued from page 1]

a showing of prejudice to his/her client should the trial proceed as scheduled. Consequently, Judge Moody reconsidered the continuance request made to Judge Schulz in one case scheduled on November 1 to go to trial on January 7 before Schulz. At a hearing before Moody on January 9, the court determined that insufficient showing for a continuance had been made by counsel. Trial was ordered to begin January 10. Upon a claim by counsel that their clients would be prejudiced by a January 10 trial, the court imposed conditional sanctions on each attorney if trial did not begin January 10.



News Flash

Kodiak Bar Association President Ben Hancock (center) and Jerry Markham, (right), award chairman, congratulate Assistant District Attorney Louis Menendez, (far left), recipient of the Kodiak Bar's Annual Diplomacy and Tact Award.

Mr. Menendez became the hands-down choice for the award when, on November 23, 1979, following the close of evidence in a jury trial, he used the greatest of diplomacy and tact, and in addition great daring, by referring to opposing counsel, during the course of arguments on jury instructions as not merely a donkey or mule, but more specifically, to a particular part thereof, found generally in the middle of the hind-quarters of said animals which is the termination of its digestive tract. (We cannot print the actual text of this remark for the enlightenment of the Bar as a whole in its search for continuing education because, unfortunately Magistrate McBride ordered the remark stricken and the record

on this point sealed.)

Surprisingly, despite Mr. Menendez' tactful and diplomatic performance, he won neither his instruction nor his case. (When later asked about its verdict, a young juror is reported as having demonstrated the identical tact and diplomacy in describing Mr. Menendez, where upon hearing this demonstration of tact and diplomacy, those members of the Kodiak Bar present immediately responded to the possible furtherance of their legal education by accompanying the young man to a nearby institution of higher learning, where other similar tactful and diplomatic language was found in evidence, along with great quantities of beer.

Despite Mr. Menendez' exemplary performance, various members of the Kodiak Bar were heard to grumble that it was unfair that Mr. Menendez should be selected, since he had only come to the Kodiak Bar two months beforehand.

Better Luck Next Year Fellows!!

EMPLOYMENT ANNOUNCEMENT

The Alaska Bar Association is seeking to fill the position of Discipline Administrator and Counsel..

Applicant for this position must be admitted to the Alaska Bar, have a minimum of three (3) years experience as an attorney (some trial experience preferred), and be available for employment on July 1, 1980. Salary is negotiable.

Application and resume must be submitted to the Board of Governors of the Alaska Bar Association on or before April 15, 1980. For additional information, please contact the Association's office.

Each counsel was fined \$300 for failure to be prepared to go to trial on the originally scheduled date of January 7 and again on January 10. Thereafter each attorney would be fined \$100 per day until each attorney certifies he/she is prepared to go to trial. The attorneys have petitioned for review by the Supreme Court.

Business Tax Planning Course

An advanced course in Business Tax Planning will be offered here beginning in January by the Alaska Chapter of American Society of Chartered Life Underwriters.

Jeff Abbott, a Certified Public Accountant with Whitlock Carlson & Associates will direct the presentation of the course assisted by guest lecturers.

The course is a graduate level tax course which covers the major tax attributes of corporations and partnerships including analysis of buy and sell agreements.

Inquiries regarding the course should be directed to Andrea McDonald, Advanced Studies Chairman for the group, telephone 278-9505.

Ombudsman-Old Critter With a New Face Lift

by Frank Flavin

The word "Ombudsman" is Swedish, meaning an office established by the legislature or parliament and headed by an independent, high level public official who receives complaints from aggrieved persons against government agencies, officials, and employees, conducts an investigation, and, if the complaints are justified, recommends corrective action. The Office of Ombudsman was established in Alaska in 1975 (Ch. 32 SLA 1975).

The Swedish Constitution of 1809 provided the model for the present day Office of the Ombudsman. It is not known whether Sweden reached an early stage of enlightenment or bureaucracy.

The first ombudsman office in the United States was established in Hawaii in 1968. There are presently offices in Iowa, Nebraska, Puerto Rico and Guam, in addition to Hawaii and Alaska.

The original concept of an ombudsman, as established in Scandinavia, was that of a "controller" of the bureaucracy or public watchdog. The emphasis of their offices is primarily on matters of public consequence and the role of ombudsman is that of an external critic of the administrative process.

The ombudsman concept, as adopted by British Commonwealth countries (Australia, New Zealand, and most Canadian Provinces), generally emphasizes individual citizen grievance resolution rather than the watchdog or controller role.

U.S. Offices, including Alaska, generally serve both functions of resolving citizen grievances and improving public administration.

The Alaskan and Hawaiian ombudsman statutes are almost identical, and parallel the provisions of the American Bar Association Model Ombudsman Statute for State Governments.

The Alaska Ombudsman is classic in the sense that the ombudsman has statutory independence and full powers of investigation of administrative acts but only powers to recommend change rather than the ability to reverse administrative acts. The ombudsman represents neither the government nor the citizen, but serves as an important intermediary.

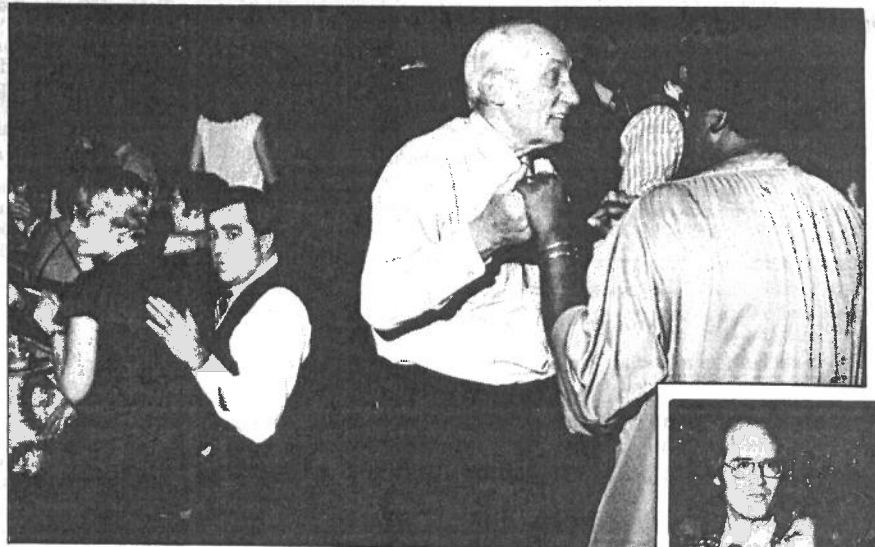
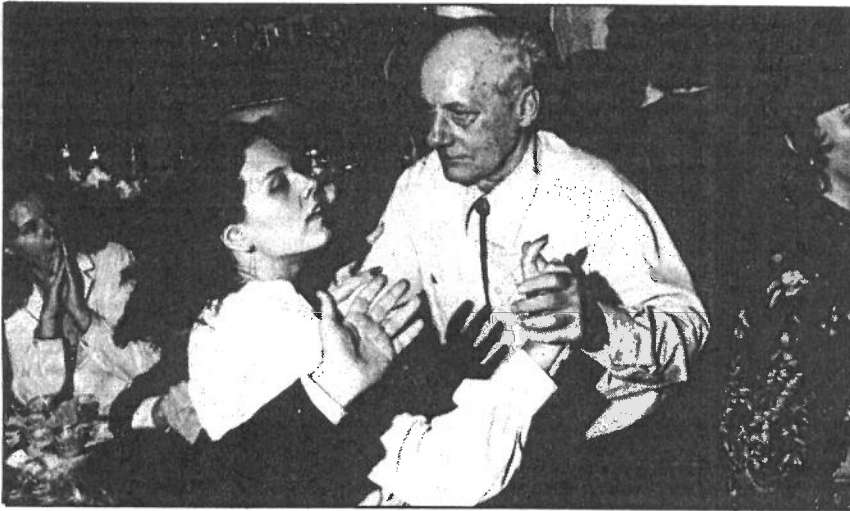
The Alaska Office of the Ombudsman is the busiest office in the United States in terms of complaint filings. The Alaska Office receives almost twice as many requests for assistance as the next busiest Office, Hawaii (with twice the population). It is not known if this is due to climatic or governmental factors.

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System Unwinds at Boffo Xmas Bash

photos by Ken Roberts



'70s Landmark Supreme Court Decisions Reviewed

by Bob Bacon

Bob Bacon is Clerk of the Alaska Supreme Court. This article represents his own views and is not an official statement of the Alaska Supreme Court.

The Alaska Supreme Court issued 1413 opinions during the 1970s as its workload increased more than fivefold.

On January 1, 1970, Chief Justice Buell A. Nesbitt and Justices John H. Dimond, Jay A. Rabinowitz, George F. Boney and Roger G. Connor had 114 pending cases, and during 1970 they wrote 72 opinions. Despite producing 234 opinions and 38 unpublished memorandum opinion judgments during 1979, their successors ten years later faced 646 pending cases.

Recognizing the difficulty of electing the ten most significant opinions out of more than 1400, the writer has been prevailed upon to make such a selection. The choice is entirely his own, not presuming to speak for the court. With that in mind, herewith ten decisions selected to reflect both public notoriety and importance in development of the law:

Jury Trial

The Alaska Supreme Court has come to be recognized during the 1970s for its willingness to interpret the Alaska Constitution differently than similar provisions in the United States Constitution are interpreted by the U.S. Supreme Court. One of its major statements to that effect came early in the decade in *Baker v. City of Fairbanks*, 471 P.2d 386 (1970). In *Baker*, the court held that the right to jury trial extends to any offense for which there is a possibility of imprisonment or loss of a valuable license.

Sentence Review

The 1969 Legislature gave the court the power of appellate review of criminal sentences, and in the first such case, the court laid down its guidelines for sentence review. *State v. Chaney*, 477 P.2d 441 (1970), de-

fining the objectives of sentencing; rehabilitation, isolation, deterrence of the offender and others, and expressing community condemnation. The court said it would make its own examination of the record when a sentence is appealed, but would modify the sentence only if the trial judge was "clearly mistaken."

Molly Hootch

Repeatedly the court has been called on to address legal issues presented by Alaska's great distances and sparse population, and the interplay of Native and western cultures. *Hootch v. Alaska State-Operated School System*, 536 P.2d 793 (1975), the "Molly Hootch" case, presented such issues. The court rejected claims of bush residents that they had a right to attend secondary schools in their home communities. The court left the complex questions to the political process.

Marijuana at Home

The voters amended the Alaska constitution in 1972 to provide an explicit right to privacy, and some of the court's most-talked-about decisions concerned that right. In one of them, *Ravin v. State*, 537 P.2d 494 (1975), the court made headlines by finding encompassed within that provision the right of adults to use marijuana, at least in the home.

Comparative Negligence

The development of the common law in the traditional manner seldom makes for opinions of wide interest. An exception was *Kaatz v. State*, 540 P.2d 1037 (1975), in which Alaska became the third state to replace a contributory negligence system with principles of comparative negligence by judicial decision rather than legislation. The court continued the development of the common law in this area, and addressed the relationship of the new doctrine to pre-existing statutes, in a number of subsequent cases.

Psychotherapist-Patient Privilege

Legal scholars tell us that rarely in modern times has a new eviden-

tiary privilege been created at common law, rather than by statute. One of the rare exceptions was *Allred v. State*, 554 P.2d 411 (1976). The five justices produced four different opinions, none commanding more than two votes, but a majority found a common-law psychotherapist-patient privilege.

Many of Alaska's top news stories during the 1970s concerned the state's natural resources, so it is not surprising that many of the court's major decisions did also. It is difficult to select the leading ones, but the Alaska Hire and Beirne Initiative cases do stand out.

Alaska Hire

The Alaska Hire case was one of two occasions during the decade when the court was reversed by the U.S. Supreme Court. *Hicklin v. Orbeck*, 565 P.2d 159 (1977), rev'd, 437 U.S. 518 (1978). The court by a 3-2 vote upheld the residents' preference for jobs on state-leased oil & gas projects, after unanimously striking out the one-year durational residency requirement. The U.S. Supreme Court struck down the law in its entirety.

(Parenthetically, the other reversal from the Supremes in Washington came in *Davis v. State*, 499 P.2d 1025 (1972), rev'd, 415 U.S. 308 (1974), involving the right of confrontation in criminal cases.)

Homestead Initiative

The Beirne Initiative decision, *Thomas v. Bailey*, 595 P.2d 1 (1979), must qualify as one of the most eagerly-awaited of the decade. Five months after the voters approved the initiative providing for the free distribution of up to 30 million acres of state-owned land, the court held the initiative invalid. Without reaching the validity of the initiative's duration residency requirement (an issue reminiscent of *Hicklin*), the majority of the court concluded that the Beirne Initiative ran afoul of the state constitution. Disposing of state land, like disposing of state money, was an "appropriation," the court said, and as such could not be the subject of an initiative.

No Coke at Home

The standards for testing laws against the constitutional equal protection clauses produced much legal debate during the 1970s. The Alaska court charted its own course in a number of cases, including *Hicklin*. The process culminated in *State v. Erickson*, 574 P.2d 1 (1978), which adopted a single sliding-scale test in place of the "rational basis" and "strict scrutiny" standards. *Erickson* drew much public interest on its facts, as the court unanimously refused to extend to cocaine its holding on marijuana in *Ravin* three years earlier.

Governorship

From time to time, the court tackled disputes concerning the

political processes of government: reapportionment (twice), the capital move initiative, gubernatorial appointments, the campaign disclosure laws. But the 1978 gubernatorial election was *sui generis*. While appellate decisions usually take time to mature before consumption, like good wines, *Hammond v. Hickel*, 588 P.2d 256 (1978), was issued seven days and six hours after the Superior Court's decision. The court reversed the Superior Court and upheld the August 1978 primary which resulted in the nomination of Jay Hammond and Chancy Croft for Governor.

Court of Appeals

What do the 1980s hold? Pending legislation, endorsed by the Supreme Court, would make the most major change in the appellate structure since the court opened its doors in 1959. A Court of Appeals would hear all criminal appeals, with certiorari-type discretionary review by the Supreme Court thereafter. Civil cases would continue to go to the Supreme Court as they do now.

Lawyers, Judges on New Anchorage Calendaring Committee

The Calendaring Committee appointed by the Chief Justice and composed of Anchorage Superior Court Judges, Supreme Court Justices and state-wide court administration personnel has been disbanded. In its place, a new Calendaring Committee has been formed by presiding Judge *Ralph Moody*. Members of the Committee are Judges *Moody*, *Carlson* and *Rowland* plus court administrator *Jim Arnold* and trial attorneys *Ames Luce*, *Dan Moore* and *James Powell*.

The Committee was formed and met in December to schedule meetings and outline work. The Committee is currently considering the proposed pre-trial procedures from the Ad Hoc Committee of Trial Attorneys and a proposed interim order prepared under the direction of Judge *Carlson*. The purpose of the Committee is to consider, evaluate and devise calendaring procedures for the Superior Court in Anchorage, to eliminate and/or reduce the current backlog of cases trailing for trial and to avoid future backlogs. Assisting the Committee are court personnel *Ted Moninski* and *Mickie Levins*.

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Bar Rag Profile

Jim Arnold: The Inside Story

by Ace Reporter
Judith Bazeley

Area Court Administrator Jim Arnold plans to retire from his position with the Alaska Court System as soon after March 31, 1980, as possible. Arnold came to the Alaska Court System in early 1974, after 16 years with the Sacramento County Court System in California. Prior to that, he was in the United States Air Force for 12 years.

In Sacramento, Arnold started his career in court administration in the clerk's office in 1961. He rose through several positions, including in-court deputy and master calendar clerk, to court administrator in 1967. By 1974, the Sacramento Superior Court epitomized calendar management and was used as an example to other California courts. This made it less challenging and made Arnold more receptive to the then Presiding Judge Judge Occipiani's, attempts to recruit him for the position in Alaska. Arnold says that Arthur Snowden, the Administrative Director for the Court System, also played a part in recruiting him for the Alaska position. Arnold gives two reasons for his retirement at this time. First, an alfalfa ranch he owns in Nevada which he purchased in 1975 needs more time and attention than he has been able to give it from Alaska. The second factor in his decision to retire is his health. In the summer of 1979, he suffered what was first diagnosed as a heart attack while attending a convention in Sarasota. Although the attack was later determined to have just been a warning, Arnold decided to adhere to his decision to retire, made at the time he thought he had suffered a real attack. He says that but for this scare, he would not retire at this point, although he had always planned to retire before the age of 50.

Best Job

Arnold feels he has had the best court administrator's job in the world because of the duties, responsibilities and authorities which are delegated to the position by the Third Judicial District trial judges. Under the supervision of the presiding judge, he is in charge of all non-judicial administrative responsibilities in the District. His job involves "everything you can think of." He puts together and administers a budget in excess of \$10 million. He is responsible for more than 200 employees and their needs and supervision.



Your date certain is Monday — or it could be Friday.

His primary responsibility is calendar management under the ultimate supervision of the presiding judge. The present calendaring system, which Arnold refers to as a master calendar system, was initiated in July of 1974, several months after Arnold started his position with the Court in Anchorage. Arnold states that although he was responsible for the introduction of this calendaring system, that is in no way related to the fact that the Superior Court in Sacramento used a similar master calendar system at the time he held the position of administrator. Arnold states that shortly after his arrival in Anchorage he studied the calendaring needs of the Superior Court and discussed its needs and problems with many trial lawyers and all of the trial judges and that adoption of a master calendar system was his independent recommendation. This system was adopted with the unanimous concurrence of the trial judges. Nonetheless, the first year the Court System operated under a hybrid calendaring system. This was not entirely successful and in 1975 the conversion to a total master calendar was made.



You're not ready?

Master Calendar Breakdown

Arnold feels that the master calendar has served the Anchorage Court System well and that there were no significant problems with it until February of 1978. In February of 1978, the system began to function less effectively because of several protracted criminal cases which no one anticipated and which had to be scheduled after the volume of civil cases that had already been computed were set. Subsequently, there have been more protracted criminal trials which have contributed to the inadequate functioning of the master calendar system. Complaints about the calendaring system from local attorneys have become frequent. According to Arnold, the Court System is powerless to control this volume of criminal cases because there is no way of getting around the speedy trial rule. Arnold also cites the Attorney General's decision to prohibit plea bargaining as a factor in increasing the volume of criminal cases which, in turn, caused the displacement of civil cases.

According to Arnold, once lengthy criminal trials began causing a delay in civil trials, attorneys forced the trial courts to enforce a hitherto little known rule on trailing cases, with a result that civil cases started trailing and, in Arnold's view, a great deal of settlement incentive was lost because the "integrity of a trial date certain" had been de-



James E. Arnold

stroyed. Only recently has the Supreme Court allowed a relaxation of the rule which provides for a trailing calendar.

Personally, Arnold favors a master calendar system because he thinks it is the most efficient. It operates by a scientific formula which enables accurate setting of the trial calendar. However, Arnold agrees that if the components of the formula change or cannot be clearly ascertained, the system will not work.

Time For A Change

Arnold has now come to the conclusion that the master calendar system no longer works in Anchorage and he presently favors a change to some other type of calendaring system. He thinks that one of the reasons the master calendar system does not operate successfully here is that this jurisdiction is plagued with pre-emptions of judges. Attorneys use the rule permitting pre-emption to delay trials presumably in their client's interests and the rule is widely used by attorneys for judge shopping.

In talking about the calendaring problems that the court in Anchorage has experienced, Arnold frequently uses the term "local legal culture." He defines "local legal culture" as "what the people in the profession expect." The thesis is that the delay in bringing a case to trial will be what the local attorneys expect it to be. According to Arnold, the delay is presently 16-18 months in Anchorage and the local legal culture expects it to be about 12 months. Arnold points out that Anchorage judges are mostly a product of the local legal culture and are mindful of the legal profession's expectations.

Arnold describes attorneys in Anchorage as "nice guys." While he feels that there is probably an above-average number of competent attorneys in Anchorage, he feels that for the most part local attorneys come to Court (trial) unprepared, thus it takes substantially longer to try a case in Anchorage than any other place he has ever heard of. It takes twice as long to try a case in Anchorage as it takes in Fairbanks, and two and three times as long as in Sacramento or Portland.

When queried further about his assertion that local attorneys come to trial unprepared, Arnold states that he feels that the laxness of some local trial judges encourages this. He says that the judges are teachers and that they often find themselves in the position of watching out for an attorney's client's rights. Ultimately, Arnold sees this affecting other litigants and to this extent he thinks that judges and lawyers should be reeducated. He feels that judges should be uniform in imposing sanctions on attorneys and that generally they should be less lenient with unprepared attorneys.

Studies Support System

Arnold does not feel that the

backlog of civil cases awaiting trial could have been avoided because those cases had already been set for trial and there was no way of knowing how long the "peak" of criminal cases would last. Arnold states that the master calendar system in Anchorage has been the subject of many studies. In fact, it is his opinion that this Court is one of the most studied courts. Until recently, all studies indicated that the master calendar system was working efficiently and that it should be maintained because of the size of the District and the type of work involved. The most recent study initiated by the Court was undertaken in 1978 by Maureen Solomon, a nationally known consultant who spent approximately a week at the Court System and who was provided with large amounts of court system data. Her report concluded that, with some minor adjustment, the master calendaring system should not be changed.

At this time, Arnold himself believes that a change in the calendaring system in Anchorage is necessary. He acknowledges that this is a 180 degree turn around from his earlier views. He states that he is in complete agreement with the views expressed by Ames Luce in the November/December issue of the Bar Rag. He believes that change alone will cause an improvement in the calendaring system, and that over the next 12 to 18 months it will lead to an increased number of dispositions, because individual judge assignments will cause more settlements and will eliminate attorney unpreparedness. Also, under a system which provides for early assignment of judges, attorneys will be forced to exercise their pre-emptions at the beginning of the case and a new judge can be quickly assigned at the outset.

Fact Finding In Phoenix

Arnold has just completed a fact-finding trip to Phoenix, Arizona where



You want a trial date when?

he studied the operation of the Phoenix court calendar. There, cases are assigned to individual judges shortly after filing and remain with that judge. According to Arnold, this system works "unbelievably" well in Phoenix. He feels that the Phoenix court has proved that individual calendars are as good or better than master calendars.

Arnold is a member of a special committee appointed to study the calendaring system and make recommendations to the trial judges. Other members of the committee are Attorneys Dan Moore, Ames Luce, and Jim Powell, and Judges Moody, Rowland and Carlson. Staff assistants are Mickie Levins and Ted Moninski.

Sometime in February, Arnold will be recommending various types of calendaring systems to Judge Moody's special committee. Among these recommendations will be one for total individual judge calendars combined with early judge assign-

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Editorial

Recent history, at least from 1920 onwards, seems to be presented most often in units of ten, or decades. Newspaper, magazine, radio and television editors find the ten year review irresistible. The end of the 1970s was no exception. Since the beginning of 1980 we have been deluged with retrospectives of almost every form of human activity, including war, politics, disasters, scientific achievements, popular entertainment, crime, music, the arts and so on ad nauseum. After reviewing guns of the decade, playmates of the decade, cars of the decade, rock stars of the decade, significant deaths of the decade and other forms of light popular entertainment it struck the editors of this august and dignified publication that perhaps we too had been through something worthy of reviewing and recording. When we looked at the changes that have taken place the most obvious and most significant appeared to us to be connected in some way with the remarkable growth of the Alaska Court System. So with very little time at our disposal and boundless naivete we approached all those persons we could think of approaching and asked them to help us with a ten-year review of the system. We were delighted at the response. Everyone we talked to in the Court System was willing to pitch in and collect the data we needed. Most of the

people we talked to were really interested in seeing where they had been and, more than a few, in where the system appears to be heading.

Coincidentally, as we began our labors, the Anchorage Daily News announced the selection of Chief Justice Rabinowitz as Citizen of the Decade. The history of this man and his remarkable labors over the last 10 years is so intertwined in the growth and development of the Court System that his characteristically self-effacing remark to the effect that the Daily News paid tribute to the system when they announced their selection is, in a way, true. The impact that Chief Justice Rabinowitz, his colleagues on the Supreme Court, the Superior Courts, District Courts, Magistrates and Court Administration have had on the citizens of Alaska over the decade is enormous, albeit inestimable.

In the pages of this issue readers will find a review of some of the decade's most significant decisions by the Supreme Court, a calendar of events in the Superior Court, operating budgets for 10 years, organization charts of the office of Administrative Director, CaseFiling statistics, the growth in authorized positions, a review of the decade in District Court by Judge Brewer, and as they say in movie poster language, "More, Much Much More" in this and the February Bar Rag.

We wish we had more time and more hands available to tell the story. By 1990 we should really have our research techniques down pat. We look forward to the 80s. Happy New Decade! Happy New Year!

"Random Potshots"

by John Havelock
An Appalling Decade

The Bar Rag editors have asked their regular contributors for material retrospective of the 1970s this month. Since retrospect tends to be chronic in this column, this should be easy. However, in addressing a topic as momentous as a whole decade, personal experiences seem beneath consideration and the processes of Alaska's lawyers trivial. The topic of the progress of our august Supreme Court is occupied. So we shall rise to greater heights of generality: The overall bent of the law in the seventies.

Surely, in law, this is the most appalling decade of the century. Its highlights featured the deliberate effort by President Nixon to reduce the role and authority of the Supreme Court of the United States in American life by appointing persons of mediocre talent and moral taint. While his most odorous appointees were blocked, the fact remains that Mr. Nixon did appoint a majority of the present court. His court-packing purpose continues to cast a shadow on the work product of the court that extends through the eighties and perhaps beyond.

If the sixties were a decade of lawlessness, the seventies were a decade of excessive legalization. The statutory and judicial law of the environmental movement constitutes the principal legal innovation of the seventies. While final returns will be better assayed by historians of the next century, there is ample evidence that the legalization of political and economic processes took a tremendous toll on the economy and the confidence of the people with doubtful results in environmental improvement or better government.

Granted that the environmental protection needs of the country need addressing, it would seem unlikely that lawyers provided a cost-effective response. Some measure of the flawed

nature of the environmental movement may be found in the revival of major diseases such as malaria, which will kill millions of people. The ineffectiveness of expanded land use regulations has done little to ease metropolitan vacuity or rural despoilation. As an additional harvest, of excessive legalization (as opposed to addressing the substantive issues), we are reaping a whirlwind of complaints against governments and taxes which pose an even more disturbing threat to the possibilities of cooperative effort and the quality of life.

The seventies also marked one of those periodic convulsions in the expansion of legal education. The problems created by the legalization of economic and political activity provided employment for the new thousands of lawyers which were turned into the economy, a dubious achievement.

In the seventies, lawyers attempted to bring a resolution through international law to the most urgent

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Inside Outside Information & Observations by Karen L. Hunt

This issue of the Bar Rag initiates what will hopefully be a regular column devoted to sometimes recapping and sometimes discussing developments in the practice of law. The attempt will be to highlight national, state and local events which affect lawyers as practicing professionals. The reader's reaction, criticism and input are welcomed.

Lawyer Advertising

The Montana Supreme Court in *re Mountain Bell Directory Advertising* held that Montana lawyers may list their name, and address, and telephone number in the yellow pages but not under categories of practice because such categories would imply to the public that the lawyer is a specialist in that field and would amount to misleading advertising that is not protected by the First Amendment. A proposed caveat stating that category listing does not mean specialization was rejected by the court on grounds that lumping attorneys of various competency under the same category would give the impression of equal ability and equal specialization. Thus, the caveat protects only the lawyer and phone

company, but not the public. The court rejected the Third Circuit decision of *Princeton Community Phone Book, Inc. v. Bate*, which held that the first amendment does protect such listings.

Malpractice

In a case of first impression, a California court of appeals has imposed liability upon a lawyer for failure to refer a tax matter to a specialist. The court upheld an instruction which stated that an attorney in general practice either must refer a client to a specialist or recommend the assistance of a specialist if, under the circumstances, a reasonably careful and skillful practitioner would do so, or must possess the knowledge and skill ordinarily possessed, and exercise the care and skill ordinarily used, by specialists in good standing in a similar locality under the same circumstances. The fact that the lawyer had advised his client that he was unsure as to whether the IRS would approve certain types of assets being transferred to a Clifford Trust was insufficient to avoid liability when the IRS did not approve the asset transfer.

Alaska Bar Committees

Special Committees on the proposed American Bar Association model plan for lawyer specialization and to develop advertising regulations for Alaska will report to the membership at the June 14 annual meeting of the Alaska Bar Association. Important specialization issues will be presented via resolution for member's vote. Given the possible trend indicated by the California decision discussed above, every lawyer will want to participate in the discussion and vote.

Trial Practice Ethics

Thomas E. Cargill, Jr., president of the Roscoe Pound-American Trial Lawyers Foundation, in response to a request by Theodore I. Koskoff, president of the Association of Trial Lawyers of America, has established a nationwide commission for the purpose of developing and publishing a code of ethics for trial practice.

The commission expects to have a working draft of a new ethics code for the trial bar by the next time it meets, May 2, in St. Louis at the ATLA Eighth Circuit meeting. Unfortunately, outside of one attorney from Utah and one from LA, no western state lawyers or judges are on the commission.

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Letters

Kind Words From A Poet

Dear Editor:

Enclosed is a poem I wrote last summer. If it does not meet with the high calibre of excellence required by the editorial staff, I will understand its rejection and strive harder in the future to produce a tract worthy of those illustrious pages. However, if you are willing to publish my "Opus One-Seal" then surely your vision and wisdom is far beyond these pedestrian times - and my mother will probably order a year's subscription to *The Rag*.

Seriously, I love the paper with its many fine and funny articles. Keep up the good work. You and your

Bill Renfrew

by Russ Arnett

The Bull Died

Bill Renfrew was an original. In an act of boyish high spirits he and a friend decided to castrate a neighbor's bull. The operation succeeded, but the bull died. Not knowing Bill's involvement, the rancher hired him and his friend to bury the bull which by then had swelled quite large. Reasoning that a smaller bull would require a smaller hole, they decided to deflate the bull with a pickax. The tough hide caused the pickax to bounce, nearly doing comparable damage to Bill. He never lost his high spirits.

Ed Davis and Bill came to Anchorage together and practiced as Davis and Renfrew from 1939 to 1951, when John Hughes became a partner. Bill hunted rabbits in the Turnagain area to augment his law practice earnings during his first winter in Anchorage.

Bill was resourceful and a man of action. When a dispute arose over possession of P.O.D. savings bonds between the children of the deceased bond holder and the woman he had been living with, Bill flew his plane to where the deceased's lawyer practiced, rightiously demanded and received the bonds from him, and mailed them to the children in South Dakota. Renfrew soon received a call from Bailey Bell, now representing the grieving girl friend. On learning that the young lawyer had surrendered the bonds to Renfrew, Bailey, after a long pause, said in his Oklahoma drawl, "Oh, he shouldn't have done that. He's poorer than bat s _ _ t." Renfrew dissolved in laughter and tears.

A Safari

When the first Alaska Bar convention was held in Anchorage, Bill was in charge. The Anchorage Bar instructed him to provide a first class convention. The main event was billed "An African Safari" and was held at the Club Oasis. Mel Bell thought it was great. The lawyers danced with the dancing girls, and some of them headed for the room in the back.

Bill later decided to go on a real African safari. The only way a particular rare beast could be approached was by crawling through dangerous jungle. Bill accepted the advice of the white hunter to let one of the natives crawl ahead of him.

Self Help

On one occasion Bill asked Judge J.L. McCarrey for a recess. The judge reminded Bill that the time for the morning recess had not arrived; motion denied. Bill responded that he

[continued on page 12]

associates also seem to enjoy taking a poke at a dead seal now and then.

Fraternally yours,
Robin L. Taylor

Kotzebue Judicial Application

Dear Member of the Alaska Bar Association:

Applications are being accepted for a newly-created Superior Court Judge position in Kotzebue. The judge filling this position will be expected to reside in Kotzebue and to travel regularly to Barrow. Additionally, this judge will provide periodic assistance at Nome, Bethel and other court locations throughout the state.

A superior court judge must be a citizen of the United States and of the State, a resident of the State for three years immediately preceding appointment, engaged for no fewer than five years immediately preceding appointment in the active practice of law, and at the time of appointment be licensed to practice law in Alaska. The active practice of law is defined in AS 22.05.070. The annual salary of the office is \$57,072. Superior court judges are entitled to personal leave as established by the Administrative Rules of Court, state paid health and dental

benefits and retirement benefits under the judicial retirement system.

Interested persons should write or call the Alaska Judicial Council and request an application form. Such forms may also be obtained in person at the above address. All applications should include a statement from a physician assessing the physical capability of the applicant to perform the duties of a superior court judge.

Completed applications must be received by the Alaska Judicial Council no later than 4:30 p.m. on Tuesday, January 15, 1980.

Sincerely,

Jay A. Rabinowitz
Chairman, Ex Officio
420 L Street, Suite 502
Anchorage, AK 99501

Pattern Jury Instructions

Dear Editor:

The Supreme Court of Alaska has appointed a committee to assist in the development of pattern jury instructions for use in civil cases. I would appreciate your making the members of the Bar aware of the Committee's work through publication of a short article or notice in the next issue of the *Bar Rag*.

Seal Poker's Lament

A dead and rotting seal washed up upon my beach
a gift of stinking flotsam from the tide.
I figured it would leave my place
the way it had arrived,
but the waves refused to take it; there it lied.

After lying there a week or so
the mess became obscene;
the big brown eyes and sleek smooth skin were gone.
The process of decay had slowly changed the seal
to a putrid rotting piece of carrion.

I used a rusty gaff hook
to drag the seal's remains
and slid the poor sad thing into the sea.
A bent old branch of cottonwood
pushed it from the shore
but the waves sent the carcass back to me.

I shoved it off again
six or seven times
and each time it came back to my dismay.
The tide was going out
but the seal kept coming in
soaking both my feet in salty spray.

I went and got Jim's pike pole,
twenty feet or more,
and pushed again to reach the offshore flow.
But the stubborn sea began again
to push it back my way
so I started throwing stones to make it go.

I threw and threw
and threw some more
and slowly, oh so slowly, it withdrew.
It finally got so far offshore
that only small stones reached
so I climbed the bank to get a better view.

Man is such a puny thing
to challenge wind and tide
with only rocks and sticks at his command.
It seemed all out of reason
to have won against those odds
and to really have the seal off of my land.

Early the next morning
I checked the beach again
to verify success and rest my fear.
I think the seal was probably shot
by salmon fishermen
and its spirit out of vengeance sent it here.

For years ago I too shot seals
while fishing right out there;
we never even bothered to keep score.
This thought and many others
went sailing through my mind
next morning as I walked along my shore.

The arrogance of sweet success
vanished in a flash; there it was,
the damned thing had come back.
I quickly grabbed gaff, pike and stones,
hooked and pushed and threw;
I didn't even give it any slack.

It's been about a week now
since my first frustrating try
but high tide finds me down upon the sand.
I push and shove it seaward
and always it returns;
it almost seems as if upon command.

My future now is scheduled,
I march to lunar time;
The only clock that counts is in the sea.
I daily search the tide book
for the monumental tide
which will take that seal and finally set me free.

I'm hoping in November
when the twenty footers come
it will float into some other fella's bay.
But I fear that my responses
will become Pavlovian
and that ghostly ghostly seal won't go way.

I feel like Don Quixote
apokin' at my seal,
it's like takin' on a case you just can't win.
I'll probably drown atryin'
to push him off my beach
and knowin' that he's comin' right back in.

How many lawyers daily
find a dead seal on their beach
and know that their best efforts won't prevail?
But they all keep on atryin'
and every now and then
I read of how another seal set sail.

Some lawyers disregard the seals
letting nature take its course
and only work on cases they can win.
They don't know where it's at my friends,
they can't even hum the tune, and
callin' their kind lawyers is a sin.

But those guys should not be censored
only pitied
and I'm not one to act with such disdain.
I'm just a stinking old seal poker
who dropped in here
to get out of the rain.

Seal pokerers all seem
to know each other
they share a certain kind of camaraderie.
I find them in
the court rooms of Alaska;
the finest of a grand fraternity.

Robin L. Taylor

The Committee members are Judge Jay Hodges, Judge James Singleton, Judge Milton Souter, Dan Gerety, Theodore Fleischer, Michael Moody and Julian Mason, Chairman.

The Committee is working with instructions developed specifically for Alaska by Professors Saltzburg and Perlman of the University of Virginia School of Law. The Committee now has instructions on general negligence principles, product liability, professional malpractice, survival and death claims, contracts, eminent domain, and will contests. Instructions in other areas of the law will follow.

The Committee welcomes comments and suggestions from members of the Bar. As soon as the Committee completes its review of each set of proposed instructions, the instructions will be placed in law libraries, court houses, and other convenient places throughout the State. In the interim, questions and comments should be sent to:

Julian L. Mason
Dunn, Baily & Mason
429 D Street, Suite 201
Anchorage, Alaska 99501

Thank you for bringing the Committee's work to the attention of the Bar.

Very truly yours,
Julian L. Mason

Case Filings

The following information for a comparison of case filings in the District, Superior, and Supreme Courts only goes back as far as 1972.

The projection for 1979 is for the first nine months.

	1972	1979	% Increase
Supreme			
Petition for Review	43	120	181%
Original Application	16	41	158%
Appeals	179	417	134%
	238	578	144%
Superior			
Felonies	1016	659	-35%
Childrens	1661	1261	-24%
Civil	5418	9539*	+76%
Probate	1129	1857	+64%
	9224	13316	+44%
District			
Felonies	1735	1689	-3%
Misdemeanors	14828	22939	+55%
Traffic	41695	67252	+61%
Civil	6784	15072	+122%
	65042	106952	+64%

*Domestic Relations filings account for 4186 of these cases with 2414 in Anchorage.

Brief Look Into The Crystal Ball For The '80s

by J.J. Brewer

★ District Court will continue to grow in numbers of judges, courtrooms, personnel and jurisdictional amounts.

★ In election years, judges generally have to pull the belt a notch or two tighter or start "moon-lighting" in lieu of a salary increase—1980 probably will see the same.

★ Judge Moody will continue to be a prominent judicial influence while lesser lights at all levels of court will fade away.

★ The new criminal code, no matter how many seminars are held or how extensively Barry Stearn explains it, will follow the ultimate demise of ERA, and the actions of the State of Arizona which has repealed its new criminal code. A similar movement is underway in at least one other state. This prophet hears the Alaska code has "appeal" written in invisible ink on every page.

★ In turn, this will create such a backlog of cases on appeal that either present courts must be expanded or an intermediate ap-

pellate court established.

★ In 1989 new Chief Justice Avrum Gross will be selected Man of the Decade by one of the Anchorage newspapers, provided the newspaper itself still exists.

★ Rather than create ever more Superior Court positions or special masters to handle the civil case backlog, the Legislature may be inclined to expand the District Court's jurisdiction to \$50,000 and establish more District Court judgeships, patterning our judicial system after those of other states into a pyramidal shape, geometrically speaking, rather than to continue the mushroom shape with the District Court being only a weak stem. The pyramid concept would be capable of relieving the backlog, support the Superior Court and accommodate the public and the attorneys. One perhaps feasible aspect is to statutorily make it a "court of record," continue the six-person jury concept and, besides increasing the jurisdictional amount, add equity functions such as divorces and specific performance of contracts, as well as title to real property cases and felony cases. (The latter would on assignment, the judges "associate" or "assistant" Superior Court judges.) (Under the present system, the backlog is almost "built-in" and will continue, but for temporary measures.)

comes, lawyers will design it, but we are presently baffled. Why has not imagination and force of reason from the legal community provided leadership here?

Despite the claimed emergence of a "new lawyer," lawyers have failed to rise above their interest groups. Despite a decade of effort, the 1954 Internal Revenue Code is basically untouched by reform. The tendency to invidious disparity between treatment of the rich and the poor in the distribution of benefits and burdens of social activity have increased.

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Havelock

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problem of our civilization, the arms race. The efforts of the decade in SALT I and SALT II now lie in ruins as an irrelevant consequence of the emergence of a religious zealot in the Middle East coincident with the American presidential campaign. The doomsday clock has begun to move again.

Economists pontificate, estimate and turn under the klieg lights; lawyers write the ordering language which determines how our economy works. Another disaster area in which lawyers must share a portion of the blame: a basically healthy economy, which had survived the burdens of a major war, has become disintegrated and unmanageable. The legal tools for its control, which all took for granted, have proven themselves totally ineffective in the face of an international cartel and no redesign matching the influence of this cartel seems in the offing. When it

A Glance at District Court During the '70s Decade

by J.J. Brewer
District Judge

By 1970 considerable progress had been made since I came to the Court System in 1963 and was appointed to the bench in '66. The new judges named the year before (Dec. 30, 1968, actually) by Governor Wally Hickel had settled into their routines. District Judges around the State included: Anchorage—Paul B. Jones, Presiding; J.J. Brewer, John D. Mason, Dorothy D. Tyner and Warren A. Tucker with Hal Horton at Kodiak; Fairbanks—Hugh Connally, Presiding; Mary Alice Miller and Arthur L. Robson and at Bethel, Nora Guinn; Juneau—Bruce Munroe, Presiding; Henry C. Keene, Ketchikan and Keefer Gray, Sitka. The only District Judge in the Second District was Maurice Kelliher at Nome.

Magistrates discharged District Court roles in towns and villages at other locations, as now. It should be mentioned that during part of the period, Magistrate Ed Crutchfield of Delta Junction filled in for a considerable period as an Acting District Judge in Fairbanks and Grant Pankhurst did the same in Nome. There were others at other areas, but for short periods only.

Several Judges retired during the '70s and were replaced, such as Kelliher at Nome succeeded by Ethan Windahl, 1973-'78, followed by Pankhurst as "acting;" Gray was followed by Roger DuBrock at Sitka, 1972-'77 and Monroe Clayton (new position) and Steve Kline were appointed in Fairbanks. In Anchorage, Alex Bryner, later to become U.S. Attorney, succeeded Paul Jones, who was followed by Glenn C. Anderson; Beverly Cutler followed Dorothy Tyner; the five-year tenure of Laurel Peterson (new position) took place and he was followed late in 1979 by Richard Avery, while Virgil D. Vochocka was reappointed in 1973 at Kodiak, then Anchorage. In Juneau, Gerald O. Williams followed Bruce Munroe.

By the decade's end not only had some new positions been added but still others were deleted and the District Court's functions executed by Magistrates and Superior Court Judges. New appointees and locations include: John Bosshard, Valdez-Glenallen-Cordova; James Hornaday, Homer area and Robin Taylor Wrangell and other First District areas. (Positions eliminated and covered as outlined, included Kodiak, Sitka and Bethel).

Some functions had been transferred from District to Superior court, such as certain children's proceedings, relinquishment of parental rights, writs of habeas corpus (as a policy), and village incorporations, although around the State a number of District Judges and Magistrates perform these and/or other functions as masters for the Superior Court. Most noticeable perhaps was

the establishment of separate coroner-public administrator functions in three cities: Juneau, Ralph Slangco; Fairbanks, Lincoln Ost vice Fred H. Smith and Anchorage, Ronnie M. Bray vice Deloris Wilks. This was a boon to District Judges in those areas.

Although various duties were transferred to other courts as previously outlined (and five Magistrates appointed in Anchorage exclusively to handle traffic courts and night and weekend arraignments), on a Statewide basis there was overall increase in caseload of 64 percent. The case filings in District Court were as follows: 1972 (first year statistics are available): felonies, 1,735; misdemeanors, 14,828; civil (including small claims) 6,784 and traffic, 41,695. In 1979 (including estimates to fill out the last two weeks of December): felonies, 1,689 (a 3% decrease); misdemeanors, 22,939 (55% increase); civil, 15,072 (122% increase) and traffic, 67,252 (61% increase).

(For an area break-down, I have only Anchorage figures: 1972: felonies, 522; misdemeanors, 6,731; civil, 3,672 and traffic, 24,381 compared with 1979: felonies, 569; misdemeanors, 9,045; civil 8,185 and traffic 29,375.)

One of the fierce problems observed by myself as a pit-digger and not statistically, was the coming aboard of the Greater Anchorage Area Borough's (GAAB's) criminal and traffic codes in addition to existing city and state ordinances, statutes and regulations. For a time, that meant at lumped-together arraignments, the judge had to explain three different sets of possible penalties. It confused everyone. With the city-borough merger into the Municipality of Anchorage and the latter's adjustment of punishment provisions more nearly to State standards, arraignments were made considerably easier. Presumably other areas experienced the same things, notably the Juneau-Douglas area. (Also, with the help of the late Judge Peter Kalamarides when he was still practitioner, it was my responsibility to declare GAAB's traffic code unconstitutional because of the flaws in its adoption, in violation of both Titles 7 and 28. With appellate court affirmation of the decision, the GAAB did it right the next time around.)

A merger of District and Superior Court clerk's offices took place in Anchorage. Some say it works smoothly; others, that only the files were merged and greater problems created. However, the "bugs" were worked out as they appear and the outlook ahead is a hopeful one and the District Court seems to be on the upswing. In Anchorage, it is on top of the caseload with civil matters getting to trial in three to six weeks after filing, criminal matters in one to two months, generally. This reflects the probably over-all greatest District Court progress during the 1970s.

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Calendaring from 1970 to 1980

by Mickie Levins
Administrative Assistant
Court System

Judge Moody was Presiding Judge in 1969, with two calendar clerks working for five judges: Moody, Davis, Fitzgerald, Lewis and Occhipinti.

One clerk set the motions calendar, by typing it for all five judges, however, Judge Lewis' secretary actually scheduled his motions, and the secretary to Judge Occhipinti scheduled both motions and trials for Judge Occhipinti.

The other calendar clerk scheduled trials by two means:

1. Pre-Trial scheduled at the request of counsel and a written order setting trial date before that particular judge.

2. Telephone call from counsel stating their case was at issue and ready for trial. (The attorneys met outside of court time, and made their own arrangements as to the date they wanted the trial, then called calendaring.)

The two clerks pulled the files, checked documents, pulled depositions, exhibits or any other materials necessary for trial or motions.

November, 1970

Three more Superior Court Judges were appointed to the bench, in Anchorage: Singleton, Burke, and Hanson.

December, 1970

Trial Court Administrator hired James E. Crossler. 1st steering committee meeting with Ernst & Ernst.

January, 1971

Judge Fitzgerald, using the hybrid theory, selected civil and criminal divisions as follows:

1. Civil: Davis, Lewis, and Moody.

2. Criminal - Fitzgerald (motions as well as trials.) Singleton, Hanson, Occhipinti, and Burke, the travel judge to Kenai and Kodiak.

January, 1971

First statistical report by a calendar clerk/secretary and with the above Judges, Davis, Lewis and Moody trying civil cases, 43 were scheduled with these findings: Settled - 23; Tried - 20 (combined jury and non-jury).

Criminal cases scheduled - 23 with Judges Fitzgerald, Singleton,

Hanson and Occhipinti trying criminal cases, results were: State dismissed 6; Change of Plea - 6; and Tried - 11.

Mid-Year 1971

Recommendations by Ernst and Ernst in effect, and Judge Fitzgerald set call of the calendar for civil and criminal cases the first Monday of the month (which covered the whole month) set one major case certain each Monday (if necessary) with a back-up case load of 5-6 cases behind each civil judge. Criminal cases were on the call of the calendar also. If they did not go to trial, the criminal judge would take a civil case trial.

September, 1971

The Supreme Court of the State of Alaska promulgated a speedy trial rule requiring cases be tried within 120 days of complaint or indictment.

July, 1972

Merger of District Court and Superior Court Calendaring into Master Calendaring under consolidation. Calendaring was the first department to start and complete the consolidation. (Probate and Family Court not included.)

January, 1973

Presiding Judge Occhipinti continued with the two divisions of calendaring - Civil and Criminal.

November, 1973

Master Calendaring completed with the consolidation by accepting family and probate calendaring.

January, 1974

Moved into the new Boney Memorial Building (Superior Court division of the Trial Courts) The District Court Division moved from the first floor of 941 Fourth Avenue to occupy the second floor of the building.

April, 1974

Trial Court Administrator hired: James E. Arnold. His title was changed thereafter to Area court Administrator as his position was the administrator for the Third Judicial District, not just to service the Anchorage Area.

June, 1974

The Area Court Administrator requested all trial dates be requested through his office and not through the calendaring department. It was at

this time he commenced having trial setting conferences, which resulted in the actual setting of trials for the Superior Court Judges.

At the direction of the Area Court Administrator, and at the request of the Superior Court Judges the "team" concept was originated for criminal cases. The team concept consisted of three judges assigned to criminal cases only with an Assistant District Attorney and Assistant Public Defender or private counsel assigned to that particular judge, which formed the "team for criminal cases."

September, 1975

Calendaring study completed by Ernest C. Friesen, with some new recommendations for the calendaring system and management of the case-flow of both District and Superior Courts.

Judge Moody Recommends:

The administrative offices of the court should be more responsive to the needs of the trial courts in providing staff to perform the work of the trial courts rather than staffing the administrative offices to furnish theoretical concepts of court administration.

The foregoing recommendation will then make it possible for all supervisory personnel of the trial courts to have a sufficient staff to do the job so that supervisors can delegate the work and truly supervise and train, which is impossible under the present staffing levels.

November, 1975

Judge Ralph E. Moody appointed as the Presiding Judge of the Superior Court. He had previously served as Presiding Judge in 1969.

November, 1975

After the retirement of Judge Butcher, the family court was united into the rest of the court system, that is not having one judge to consider all family matters, but the case-load assigned to master calendaring, with Judge James K. Singleton as the Administrative Judge of Family Court.

January, 1976

The establishment of the "no plea bargaining" on criminal cases. This resulted in the criminal cases being returned to Master Calendaring, from the team judges, due to the increase of criminal cases going to trial. Also, this no plea bargaining was the beginning of the civil cases not going to trial as scheduled. The criminal cases had preference on the calendar, followed by child proceeding cases, and civil trials.

February, 1976

The Area Court Administrator and Judge Moody set a criteria for a Calendar Call of criminal cases on each Monday of week so as to know how many criminal cases would actually go to trial the following week, and how much judicial power would be assigned to the criminal cases. The balance of judicial power to be assigned to civil trials.

July, 1976

Full-time Childrens Master.

April, 1977

Calendaring study done by George F. Holmes, under the title of "Proposal for Restructuring the Anchorage Trial Court Organization." His recommendation basically was to form a support group for each Superior Court Judge.

Consolidation Of Trial Courts

by LeEllen Baker

It was the feeling of the Presiding Judge of the Superior Court that there were many duplications of functions by having clerical functions performed in both District and Superior Courts and that there would be a saving of time and money and an increase in efficiency by consolidating the two courts. The idea was presented to the Supreme Court justices who found the idea feasible and told the Presiding Judge to begin work on consolidation and to present the Supreme Court with ideas and proposed plans.

The year of 1973 was filled with meetings to organize the consolidation of the courts with the actual consolidation taking place with the moving into the new building January 2, 1974.

The District and Superior Court Civil/Criminal Departments were consolidated. Traffic was separated from District Criminal and is still located in the same office in the old buildings. A Central Files Department was established that included maintaining the records, the front counter, vital statistics, and small claims. At the time of the move, all functions that involved public contact were located in the same area of the front counter. In a very short period of time it was realized that the area was too crowded and inefficient. Eventually, Vital Statistics was moved to its present location in the old building and Small Claims was located in its present location in the Clerk's Office. In 1976 the Clerk's Office was re-organized, creating the Records Division and having the Civil Division absorb the functions of the front counter. The in-court Deputies are no longer consolidated.

While it is true that in a way we have come full circle; some of the areas of consolidation are back the way they were in 1974; however, several positive things have happened. Possibly the most important is a consolidated Records Division. All the files are sequentially numbered and located in the same area. Clerical functions in the Civil and Criminal Division work smoothly and efficiently.

August, 1977

Full-time Divorce Master.

January, 1978

Statistical report indicates with eight Superior Court Judges to try both civil and criminal cases, the case-flow for the month of January is as follows:

Civil cases scheduled	79
Tried (Jury and Non Jury)	13
Settled	19
Continued	29
Dismissed	8
No Judge Available	10
Criminal Cases Scheduled	32
Jury tried	5
Non-jury tried	1
Change of Plea	9
Continued	4
Dismissed by DA	9
Deferred Prosecution	3
Found incompetent to stand trial	1

January, 1979

Implementation of the civil trailing trial calendar.

October, 1979

Criminal Code Revision.

December, 1979

Supreme Court Order Sub Section F-3, Civil Rule 40 to Superior Court, suspending civil trailing calendar until further notice.

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Alaska Judicial Council (1970-1980)

Ten years ago, under the chairmanship of Chief Justice Buell A. Nesbett, the Judicial Council met with Governor Keith Miller and members of the Senate and House Finance and Judiciary Committees to announce their 1970 legislative program. The Council's program included recommendations for the creation of the Alaska Public Defender Agency, recommendations for legislation giving the Supreme Court of Alaska jurisdiction to hear criminal sentence appeals, and a recommendation that district, superior and supreme court justices and judges receive substantial pay increases. Virtually all of the Judicial Council's 1970 legislative program was enacted into law. The Public Defender Agency was brought into being and the Supreme court was given legislative authority for appellate review of criminal sentences on the grounds of excessive severity or leniency. In conformance with the Council's recommendation, judges and justices received the following salary increases:

Supreme Court - \$36,000
 Superior Court - \$33,000
 District Court - \$25,000

Ten years ago, in its Sixth Annual Report to the Legislature, the Judicial Council propounded some very forward-thinking resolutions, on the subject of bush justice including, among others, the following:

1. That Alaska natives be employed at policy-making levels in all justice agencies.
2. That Alaska natives be appointed to the membership of the Alaska Judicial Council, and to the Commission on Judicial Qualifications.
3. That the village council system be strengthened and made a more important part of the administration of justice in remote areas.
4. That it should be a mitigating factor in sentencing that the act in question, although violative of state law, was "committed pursuant to custom."

In mid-1973 R. Eldridge Hicks became the first executive director of the Judicial Council, and the Council itself acquired a permanent staff and office space for the first time in its history. Under the directorship of Mr. Hicks the Council undertook groundbreaking statistical research on criminal sentencing, the bail process and bush justice.

Under Mr. Hick's directorship, a bill was submitted to the Legislature requiring performance evaluations of all sitting judges by the Judicial Council prior to their retention elections. The bill also required that the voters be informed concerning the results of the Council's evaluation and of its recommendations, if

any. As with most of the Judicial Council's legislative programs, this recommendation was successful and resulted in our present statutory system of judicial performance evaluation.

In July of 1975 Michael L. Rubinstein succeeded Mr. Hicks and became the Judicial Council's second executive director. In 1976 the Legislature requested the Judicial Council to do a multi-variate statistical study of Alaskan felony sentencing practices to supply the factual basis for a revision of sentencing laws. (The Judicial Council had opposed a bill submitted by the administration and the Department of Law which would have created "flat-time" or mandatory sentences for many felonies). The Council substituted its own proposal for the "presumptive" sentencing of second felonies, and this draft legislation was substantially adopted in the form of a comprehensive revision of Title 12 of the Alaska Statutes, effective January 1, 1980.

Judicial Council statistical research on sentencing in 1978 brought to light disturbing evidence of disparities in the sentencing of certain kinds of offenses, apparently associated with the racial backgrounds of defendants. As a result of these statistical findings, the Legislature created in 1979 an Advisory Committee on Minority Sentencing Practices to receive further reports, conduct investigations and hearings, and make recommendations for legislative change during the 1980 session. The Supreme Court also appointed lawyer and non-lawyer minority group representatives to the Committee on Sentencing Guidelines, chaired by Judge Tom Shulz of Ketchikan, and vested with the duty to devise empirically-based guidelines for the sentencing of first offenders, drug offenders, and others not specifically covered by the new legislation. Judicial Council staff assists both these committees. The Supreme Court also requested that the Judicial Council undertake a continuing statistical review and evaluation of felony and misdemeanor sentencing patterns statewide, and make annual reports concerning sentencing patterns and practices over time. This function will expand greatly under the new sentencing laws which have as their stated purposes the reduction of "unjustified disparity" and the attainment of "reasonable uniformity" in sentences. The Judicial Council in the coming years will be providing current statistical information to judges, practitioners and probation officers to help them to realize the goals of the 1980 legislation.

At their last meeting before the new year the Council decided to focus effort in the 1980s on innovative approaches to the social caused by

Family Court and Other Innovations

by Francis M. Stevens
 Custody Investigator

Family Court, as a separate unit, existed in 1970. Judge Butcher having taken the bench two or three years earlier with the mandate to develop a separate division within the Superior Court in Anchorage, identified as Family Court. The program in 1970 consisted of Judge Butcher; one Standing Master, who handled juvenile matters, non-contested divorces and enforcement of child support; one Intake Officer, who coordinated the delinquency matters brought before the court; one marriage counselor, doing court sponsored marriage counseling; and, four or five clerical persons, including a calendaring clerk for Domestic Relations and children's matters with the calendaring done separate from the balance of the Superior Court calendar. In 1971, a second Master was provided because of the volume of work in the areas of children's matters, child support, and non-contested divorces. Until Judge Butcher's retirement in 1975, there were few changes in the direction of the Domestic Relations or Family Court program. There was additional staff added to the Intake Office because of increased volume in that area.

The next change of significance came about the time Judge Butcher retired, and that was to place the Domestic Relation's calendar as part of the General Trial Court's calendar and to place responsibility for supervision of those programs that had originally been identified as Family Court programs under the direction of Judge James Stagleton with the plan that there would be a rotation of judges annually with all the judges

drugs and alcohol, particularly as these relate to young people. Recognizing that most "solutions" to drug and alcohol problems have been failures, the Council strongly resolved to steer clear of "get tough" measures or other approaches that emphasize law enforcement. Instead, attention will be on promising alternatives in education and drug and alcohol prevention.

The Judicial Council consists of three lawyers appointed by the Bar Association and three non-lawyers appointed by the Governor. Lawyer-members are Michael Holmes (Juneau), Joseph Young (Anchorage), and Marcus Clapp (Fairbanks). Kenneth Brady, who was a Council member back in 1970, is the senior lay member, along with Robert Moss of Homer and John Longworth of Petersburg. The present Chairman is Chief Justice Jay A. Rabinowitz, who serves *ex officio* and votes only when there is a tie or deadlock.

on the bench assuming the responsibility of the Domestic Relations program. In 1976 the decision was made to discontinue the marriage counseling program and the Court changed the function of the marriage counselor to that of custody investigations with no further court sponsored marriage counseling available. The other change in program that came about the same time was the removal of the child support function from the court to a child support agency; although the hearings on child support, still for the most part, come through the Standing Masters in the Family Court section.

Since the retirement of Judge Butcher, in addition to Judge Singleton; Judge Justin Ripley, Judge Peter Kalamirides, Judge Milton Souter, and Judge Victor Carlson have served as supervising judges for Domestic Relations and family matters with Judge Victor Carlson currently supervising the program.

In 1979 the Court System engaged Jeanne Ames Riley as Contract Guardian Ad Litem because of the need for Guardian Ad Litem in so many of the juvenile cases and the Division of Social Services cases.

In respect to the custody investigation program in the almost three years that it has been in operation there has been an average of 220-240 custody cases a year evaluated with a settlement rate of around 90 percent in office conferences. This has led to fewer cases going to trial and a substantial saving of court time. Currently there are two Standing Masters, one who hears primarily divorce matters, the other who hears primarily children's matters, but handles domestic relation issues also. In contrast to 1970, in 1980 these divorce masters are hearing contested matters, whereas, in 1970 all contested matters went before a Superior Court Judge.

Administrative Law Committee Sponsors Seminar

On February 29, 1980, a one day seminar on Alaska administrative law will be held in Anchorage.

The seminar will cover rule making, informal and formal adjudicative procedures, and judicial review. In addition, practice before the specific administrative agencies will be discussed. The program will be presented in the February Bar Rag. Further details are available from the Administrative Law Committee.

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New Criminal Code Reviewed

by Larry Weeks

On the 31st of December at 10:00 p.m. in Anchorage a new state criminal code became effective. The old law prohibited posting a person who refused to engage in a duel, driving animals from a range, altering a brand, fornication and cohabitation, display of objectionable comic books, criminal syndicalism and a host of other interesting activities. The new code has eliminated those offenses but has some interesting aspects of its own. For example, there is now a real felony murder statute, one may commit felony assault with a firearm even though it is unloaded and the friendly poker game in a home is not prohibited.

Mental State

The two most distinguishing features of the new code are the presumptive sentencing procedures and the elimination of all mental states except intent, knowledge, recklessness or criminal negligence. The old criminal law had some 24 different words describing mental states that would have to be proved for different crimes.

Presumptive Sentencing

The new presumptive sentencing procedures were adopted as a part of the code although they are not really criminal substantive law as much as criminal procedure. They may be the most controversial aspect of the code. Although presumptive sentencing was urged on the legislature by the Chief Justice and the Executive Director of the Judicial Council was instrumental in the drafting of the statute some of the judiciary are unhappy about it. I personally believe that the system works better when good judges have the discretion to impose sentences over a wide range. I don't think that the legislature intended to remove discretion from the judges and give it to the District Attorney but there is no question but what the legislature intended to and did limit discretion in sentencing. The presumptive sentencing means that a term of years is prescribed to be the sentence and may only be increased or reduced by the presence of specific aggravating or mitigating factors and then only a certain amount of time absent extraordinary circumstances and referring the case to a three judge panel.

Armed Robbery

Previously the minimum sentence for armed robbery was ten years with a maximum of 15. In the last six months in Anchorage probably a majority of first time robbery defendants received a suspended imposition of sentence. The sentencing procedures will be longer and much more emphasis will be placed on that aspect of the process under the new code.

Beneficial Spinoffs

There have been beneficial spinoffs of adopting a new code. The Department of Law compiled a complete set of uniform complaints and distributed them to police statewide which should improve uniformity in charging. The Supreme Court has also appointed a committee to prepare uniform pattern instructions which should be available soon. The legislature appropriated an amount that allowed all police officer in the state to receive an intensive training course in the new code and every officer has now received that.

Defense attorneys seem to think the new code more stringent than the old law. There is little question that it is more comprehensive and in some places complicated and there will be some problems. If however, people will give it a chance to work it should prove a long term benefit to the state.

Department of Law Shifts Focus During '70s

The changes in the Department of Law during the 1970s reflect changes within Alaska and within the expectations of Alaskans. While the department continues to have and perform its legal advisory role and prepare opinions and legislation as it has historically, the bulk of its manpower and efforts are now focused on litigation.

Not surprisingly, major civil litigation of the 1970s was concerned with resources, primarily oil. Nevertheless, the greatest growth in civil litigation and the primary cause of the changing focus to litigation is the huge increase in the state's role in child welfare matters. Child support and placement proceedings account for 578 and 369, respectively, of 2,687 litigation civil files presently open in the department. (In other words more than a third.) Of the 2,687 litigation files open, the state is a defendant in 1250. These range from Small Claims to License Appeals under Appellate Rule 45. A substantial source of increased defense work is the limited entry fisheries program. Completely new this decade, disputes over denial of licenses account for 175 active files in the civil division. More are expected.

Tort cases, routinely "farmed out" in the early 1970s are more and more handled by the department. In 1979 of 82 tort files opened, all but 13 were handled in-house.

As our example of the dramatic increase in the litigation, department records—admittedly scanty—suggests the Juneau office handled 40-50 litigation matters in 1975. Presently that office is responsible for ten times that many cases, but has increased from 16 to 21 attorneys in that same time. The department began the 1970s with 29 civil attorneys statewide. It now has 55.

The demands of the department's remaining civil functions have, over the past 10 years, increased as much or more as have its litigation responsibilities. For example, the number of opinions and memoranda of advice issued by the department's Juneau office increased from 75 in 1970 to 301 in 1979. In fiscal year 1979, the department opened 4,033 total files (including general aid-to-agency matters, and legislative and regulation drafting)—an increase of 223 over the previous fiscal year. Again, the absence of usable records for the early 1970s precludes a broader comparison.

As one would expect, petroleum matters provided the grist for most of the Department of Law's major litigation efforts in the 1970s. The department found itself on both sides of the Alaska petroleum industry throughout the decade. Litigation involving major resource development projects included the recent Beaufort Sea oil and gas lease sale and state and federal Trans Alaska Pipeline litigation. Section 17(d)(2) of the Alaska Native Claims Settlement Act generated three federal court cases—including the pending Alaska v. Carter. Other major oil related litigation matters included the Cook Inlet royalty case (settled in 1976); the pending North Slope royalty case; the pending Trans Alaska Pipeline tariff case; and the ongoing federal court challenge to Alaska's 1976 tanker law. Litigation resulted in a recent favorable decision from the Ninth Circuit in the North Slope trespass case of U.S. v. Arco: A decision adverse to the state was reached by the United States Supreme Court in U.S. v. Alaska, dealing with Cook Inlet's submerged lands in the U.S. v. Alaska. Litigation against the federal government is currently pending

with respect to title to certain submerged lands in the Beaufort Sea. The department defended the state's local hire law—successfully before the Alaska Supreme Court, and unsuccessfully before the United States Supreme Court. The challenge to the 1978 gubernatorial primary election also consumed a large amount of the department's resources.

During the 1970s the criminal division was organized under the chief prosecutor, whose office in Juneau now has four attorneys. With this organization there has been improved logistical support to local district attorney offices, and an effort to provide better communication between offices on matters of mutual concern.

In the fall of 1977 the office of the special prosecutor and appeals was established in Anchorage. It now has seven attorneys and its goal is to improve the quality of appellate response by the department in criminal matters and to allocate additional resources to prosecute white collar crime on a statewide basis. The centralization of criminal appellate responsibilities within this office is expected to continue.

New district attorneys offices in Kenai, Kodiak, and Bethel have been part of the department's response during the 1970s to the growing demand for local prosecution. Those offices account for five new attorney positions. The Anchorage District Attorneys office has grown from nine to sixteen attorneys since 1970, and Fairbanks from five to nine. Overall the criminal division grew from 19 attorneys in 1970, to 46 in 1980.

IMMIGRATION

Keith W. Bell of the Alaska and Washington State bars, announces his availability to lawyers for consultations and referrals in US immigration and Nationality Matters re: applications for non-immigrant and immigrant visas, admission to United States, adjustment of status to permanent residents, deportation hearings, and other proceedings before the US Immigration Service.

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The Bull Died

[continued from page 7]


couldn't wait and walked out, much to the amusement of the jury and the perplexity of the judge. Recess declared.

On another occasion Bill and a friend were bird hunting on the Alaska Peninsula southwest of King Salmon. The custom in those days was to shoot until the airplane was full or you were out of shells (the latter condition unknown to Bill). Bill was getting ready to wind up his faithful 150 when the ill-regarded Fish and Wildlife Service swooped down in a Super Cub. The younger enforcement agent wanted to count and inspect the birds. Renfrew exploded in self-righteous indignation - "Why in the hell weren't you here an hour ago. We now are all packed." The game agent, understandably shaken, agreed to follow Bill to Anchorage. Immediately on being airborne Bill flew into the biggest cloud he could find. The agent naively headed for Anchorage. Bill stopped at his cabin on the way in. Upon calling the tower Bill was instructed to taxi immediately on landing to Fish and Wildlife. Being a law abiding airman he complied, and as his plane glided to the bank Renfrew stepped out onto the float to be met by the now not so naive agent. Renfrew beat him to the punch. "Where the hell have you been?" he inquired. The birds were checked. All were legal and the hunters were within legal limits. Renfrew departed grumbling about harassment and said the Law was going to the dogs.

A Faithless Wife

He never liked desk work. His secretary would place reminder notes on the points of a large set of caribou antlers in his office and it looked like a blizzard. He might arrive in court with one or two papers in his file and, in a stage whisper for the benefit of the prospective jurors, inquire who was his client. He had a strong intuitive sense of what the law should be. He would know when to make an objection and would commence with very broad objections and eventually zero in on a sustainable

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The Bull Died

[continued from page 12]

objection. This does not mean he was unsuccessful as a trial lawyer. At his best he was superb.

Perhaps his most famous defense involved a client who, on learning of his wife's unfaithfulness, walked the railroad tracks over ten miles to a section house and shot his wife's paramour dead. The prosecutor thought he had established premeditation. Bill argued that his client's step on each crosstie fell like a red hot hammer striking his already inflamed brain, making him angrier rather than cooling his passion. After the jury retired, Bill left to tie one one, assuming he had lost.

When the jury reached a verdict Ed Davis appeared for Bill. The jury acquitted. Incredulous, Ed went looking for Bill to tell the news, completely forgetting about the client who remained in jail for several hours.

Spirit In Court

Bill and another client, a prominent businessman charged with drunk driving, stopped for a drink on the way to court. In court Bill argued the charge should never have been brought because the client was no drunker than usual and, in any event, was as good a driver drunk as sober.

Late in the day of another trial in which Bill was displeased with the judge, he muttered, "This is the last time I ever appear in this court." The judge snapped, "What did you say, Mr. Renfrew?" "I said I would see you here at 10:00 in the morning, your honour," said Bill. Soon thereafter, being well fixed, Bill retired to a ranch for ten years.

Returns To Practice

Bill became bored with ranching and returned to Anchorage to practice. I had the pleasure of sharing offices with him. Old clients were loyal and returned.

He loved to fly. One day in 1973 he was flying near Homer and got lost in the clouds. Suddenly he saw a hole in the clouds and as he ascended into the sunshine he suffered a fatal heart attack. Some say if Bill had a choice on the manner in which he was to leave this world, the way he did would have at least been second choice. His passenger, who had only flown briefly twenty-five years earlier, was talked into the airport at Kenai.

The Law was never Bill's jealous mistress. He frequently boasted "Show me a man who doesn't have a mustache and I'll steal his wife."

Lawyers said that he had lived the equivalent of several ordinary men's lives. Life being what it is these days, with hollow men and button down minds, this is rare.

Alaska Bar Association 1980 Budget

INCOME	\$440,395.00	Supplies	3,000.00
Admissions	\$26,185.00	Telephone	2,400.00
Board of Governors	32,125.00	Rent	7,200.00
Discipline-Grievances	114,788.00	Litigation	4,000.00
Administration	143,072.00	Copies	350.00
Lawyer Referral	19,272.00	Miscellaneous	100.00
CLE Programs	39,350.00	TOTAL DISCIPLINE/GRIEVANCES	\$114,788.00
Miscellaneous	71,275.00		
TOTAL EXPENSES	\$440,068.00	Administration Expense	
BALANCE	\$ 327.00		
Line item breakdown provided on the following pages.			
INCOME			
Members' Dues	\$248,895.00	ADMINISTRATION	
Less Client Security Fund	(14,000.00)	Telephone	\$3,600.00
Penalties	4,000.00	Travel & Per Diem	3,000.00
Admission Fees	42,500.00	Executive Director	40,000.00
CLE	47,500.00	3/4 Executive Assistant	14,850.00
Interest	6,000.00	1/4 Receptionist	3,300.00
Donations	4,000.00	Bookkeeper	18,600.00
Lawyer Referral	5,000.00	P/R Taxes	5,200.00
Annual Meeting	12,000.00	Staff Ins. & W/C	2,450.00
Mid-Winter Meeting	7,500.00	Office Supplies	4,500.00
Anchorage Bar	3,000.00	Postage	5,000.00
Court System	69,000.00	Equip. Rent & Repair	10,000.00
Address-Copying	1,500.00	Copying-Printing	2,500.00
Insurance Set Up Fees	3,000.00	Library	500.00
Miscellaneous	500.00	Audit (Year End)	4,000.00
TOTAL INCOME	\$440,395.00	Dues	300.00
		Rent	19,272.00
		Advertising	300.00
		NSF Checks	300.00
		Temporary Employee	200.00
		Liability Insurance	4,200.00
		Misc.	1,000.00
		TOTAL ADMINISTRATION	\$143,072.00
ADMISSIONS EXPENSE		Lawyer Referral Expense	
Admissions	Proposed 1980 budget		
Grading		LAWYER REFERRAL	
MBE	\$2,275.00	3/4 Secretary/Receptionist	\$9,900.00
Local	7,000.00	P/R Taxes	870.00
California	4,375.00	Staff Ins. & W/C	1,003.00
Rent	3,790.00	Telephone	2,900.00
Postage and Supplies	2,500.00	Printing	800.00
1/4 Executive Assistant	4,950.00	Advertising	3,900.00
P/R Taxes	520.00	TOTAL LAWYER REFERRAL	\$19,273.00
Staff Insurance & W/C	175.00		
Telephone	200.00	1980 CLE COMMITTEE EXPENSE	
Miscellaneous	400.00		
TOTAL ADMISSIONS	\$26,185.00		
BOARD OF GOVERNORS EXPENSE		Date	Event
BOARD OF GOVERNORS:		January	CLE Program
Travel	No. of Trips	February	Mid Winter Meeting
		March	CLE Program
Hawaii	1	April	CLE Program
Juneau	1	May	CLE Program
Ketchikan	1	June	State Bar Meeting
Anchorage	3	July	CLE Program
Fairbanks	1	August	CLE Program
Misc. Travel		September	CLE Program
TOTAL TRAVEL	\$14,550.00	October	CLE Program
Per Diem		November	(1) CLE Program
Hawaii	1		(2) Statewide CLE Chairpersons Meeting
Juneau	1	Video Equipment Purchase	800.00
Ketchikan	1	Tapes, Books, Publications, Professional Services-Video Taping, editing, preparation of Tapes	5,000.00
Anchorage	3	TOTAL CLE	\$33,350.00
Fairbanks	1		
Misc.			
TOTAL PER DIEM	\$12,825.00	Miscellaneous Expenses	
Mail/Supplies	750.00	Committees	3,000.00
Phone	3,000.00	Legislative-Lobbying	11,000.00
Misc.	1,000.00	Bar Rag	4,000.00
TOTAL BOARD OF GOVERNORS	\$32,125.00	UCLA Law Review	9,000.00
Discipline-Grievances Expense		Bar Leadership Institute for Board Officers	900.00
Bar Counsel	\$40,000.00	American Bar Conference	
Secretary	18,600.00	Travel and Per Diem for Officers	7,875.00
Investigator	27,000.00	Western States Bar Conference	
P/R Taxes	5,491.00	Travel and Per Diem for Officers	2,500.00
Staff Insurance	3,147.00	Annual Meeting	5,000.00
Travel and Per Diem	3,500.00	Workmen's Compensation Manual	5,000.00
		Special Litigation	23,000.00
		TOTAL MISCELLANEOUS	\$71,275.00

Citizen

[continued from page 1]

and maintain a system of public schools open to all children of the state" carries the obligation of providing secondary schools to the predominantly Native student populations in Bush villages.

"...under Alaska's present system of delivering secondary education," Rabinowitz wrote in 1975, "hundreds of eligible students are unable to attend high school and therefore fail to complete their public education. I do not believe this egregious situation should be perpetuated."

While the court's majority disagreed in the Molly Hootch case, the situation was soon to be changed. The first Hootch challenge to reach the court involved only the right to education issue. Other grounds cited by Hootch were still to reach the Supreme Court; before they did, an out-of-court settlement was reached in which the state government agreed to take high schools to rural Alaska villages.

The issue of sensitivity to racial discrimination again was voiced in a later case. In a concurring opinion in a case brought by a young black girl, Patricia Malvo, challenging jury selection procedures, Rabinowitz noted the importance of maintaining equal protection for minorities.

"In my view," he wrote, "the judiciary in a multiracial jurisdiction, such as Alaska, must be particularly sensitive to racial discrimination. The viability of Alaska's judicial system in general, and the use of juries in civil litigation in particular is dependent upon popular acceptance of such institutions."

Reaction

When asked for his reaction to the news that he had been proclaimed "Citizen of the Decade" by the Anchorage Daily News, Rabinowitz told the Bar Rag that he found the award to be "absolutely astounding, an amazing thing." He said, "I've never been in the limelight before. I've never been one of those people in the news. My professional life has been an institutional, collegial one. I consider the award to be a tribute to the institution, in a way, and the recognition of the Court System, the judges and the work that they have done over the decade."

Looking Forward

Looking at the new decade, the Chief Justice announced three goals for the Court System in the coming years. He said that the system must find ways to expedite the decision making process at the appellate level and shorten disposition time with regard to appeals. Secondly, he expressed the hope that we would find ways to simplify procedures in the Superior and District Courts and improve the public's access to the judicial process. Finally, he said "we have to solve the calendaring problem in Anchorage so that civil cases cannot languish."

He stated that in this coming session of the State Legislature the Court System would seek funding for a Circuit Riding Judge concept. If successful the program would focus initially on the Bethel area and would attempt to service forty to sixty villages in the lower Kuskokwim area to the Bering Sea and Norton Sound.

Court Expansion

Rabinowitz told the Bar Rag that another priority for the 1980s beginning with this session of the legislature will be a third court structure in Anchorage. He stated that more room is needed for the Public defender, prosecutor and District court offices. If funded, Rabinowitz expected the building would be erected over the court parking area next to the Boney Memorial Court House.



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Bar Amendments

Section 5 of Article V ("Board of Governors") of the By-Laws of the Alaska Bar Association, entitled, "Election," is amended by adding a new sentence to read:

Section 5. ELECTION

The Executive Director shall mail the ballots at least 15 days prior to the election. Voted ballots must be received by the Executive Director at or before 4:30 p.m. on the last Friday in April. The Executive Director, with two assistants to be selected by him, shall canvass the votes and record the result thereof. The candidate in each district and at-large receiving a majority of the votes shall be declared elected. In the event that no candidate receives such a majority, there shall be a run-off election conducted between the two candidates receiving the highest number of votes. The candidate receiving the highest number of votes in the runoff election shall be declared elected. When more than one vacancy on the Board occurs in the Third District in one election, the candidates shall run on one slate and each active member entitled to vote shall cast a ballot for two candidates. If no candidate receives a majority of the ballots cast, there shall be a run-off election between the three candidates receiving the highest number of votes. The two candidates receiving the highest number of votes in the run-off election shall be declared elected. If only one candidate receives a majority of the ballots cast, there shall be a run-off election between the next two candidates receiving the highest number of votes. The ballots for the run-off shall be mailed on or before the first Friday in May and the voted ballots must be received by the Executive Director not later than 4:30 p.m. the second Friday in May. The ballots shall be counted as provided for the first election. In the event that only one candidate has been nominated for a particular office on the Board, such candidate shall be declared elected. Promptly upon the conclusion of the canvassing, the Executive Director shall announce the results of the canvass and shall notify each candidate by mail as to whether he is or is not elected, and mail to each successful candidate a certificate of his election. Upon completion of the

canvass, the Executive Director shall replace all ballots in the locked receptacle where they shall thereafter remain until otherwise ordered by the Board of Governors. Duly elected members of the Board shall take office at the end of the annual business meeting of the Association next following their election.

★ Section 1 of Article VI of the By-Laws of the Alaska Bar Association, entitled "Officers," is amended by adding a new sentence to read:

Section 1. OFFICERS

A President-Elect, Vice-President, Secretary, and Treasurer shall be elected by a majority vote of the active members of the Alaska Bar in attendance at the annual meeting. Newly elected officers of the Association shall take office at the end of the annual business meeting at which they have been elected.

Proposed Amendments to Alaska Bar Rule 13

Alaska Bar Rule II-13, entitled "The Disciplinary Board of the Alaska Bar Association," is amended as follows:

A. Subsection (c)(6) of Bar Rule II-13 is repealed and re-enacted to read:

(6) To forward to the Court the findings of fact, conclusions of law, and proposed orders of hearing committees.

B. Subsection (c)(7) of Bar Rule II-13 is amended by adopting a new subsection to read:

(7) To forward to the Court such modifications as the Board shall have made to the findings of fact, conclusions of law, and proposed orders of hearing committees, the Board having power to make such modifications, whether or not there has been an appeal to the Board, and without regard to the discipline recommended by the hearing committee.

C. Present subsections (c)(7) and (8) of Bar Rule II-13 are amended by redesignation as subsections (8) and (9).

Proposed Amendment to Alaska Bar Rule 15

Section (i) of Alaska Bar Rule

II-15, entitled "Steering Committees and Disciplinary Procedures," is amended to bring it into alignment with the proposed amendments to Bar Rule II-13; to wit:

(i) Unless the Respondent or the Administrator makes a written request to the Board for oral argument within the date established for the submission of briefs, oral argument shall be waived. If neither the Respondent nor the Administrator objects to the conclusions and recommendations of the Hearing Committee within 10 days from the submission of the Hearing Committee's report, the submission of briefs may be waived by stipulation, subject to approval by the Board. The Board shall review the record and briefs and enter an appropriate order as provided in Rule 13(c) 6, 7, and 8. (Rule 13(c) 6 and 7.) Proceedings before the Board shall be conducted by the Administrator.

Proposed Amendments to Alaska Bar Rule 44

Subsections (b) and (c) of Section 3 of Alaska Bar Rule IV-44, entitled "Legal Interns," is amended as follows:

A. Subsection 3(b) is amended to read:

(b) Be a student who:

(1) Is duly enrolled in a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered, or is enrolled in a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school in which he is enrolled meets the American Bar

Association Council of Legal Education Standards for approval;

(2) Has successfully completed at least one-half of the course work required for a law degree;

(3) Has filed with the application a certificate from the dean or other chief administrative officer of his law school, stating that he meets the requirements as set forth in subsections (b)(1) and (b)(2); or

B. Subsection 3(c) is amended to read:

(c) Be a law school graduate who:

(1) Has graduated from a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school from which he has graduated meets the American Bar Association Council of Legal Education Standards for approval;

(2) Has never failed a bar examination administered by any state of the United States, or the District of Columbia, or, despite failure, has subsequently passed such a bar examination;

(3) Has filed with the Executive Director a certificate from the dean or other chief administrative officer of his law school, stating that he meets the requirements set forth in subsection (c)(1), and either his personal affidavit stating that he never failed a bar examination, as set forth in subsection (c)(2), or a certificate from the Supreme Court of the state in which, subsequent to failure, a bar examination was passed.

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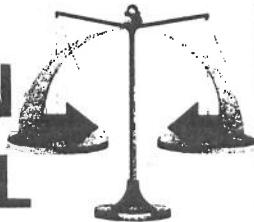
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Ten Years of Bush Justice

The following events highlight the past decade of the court system's presence in rural Alaska.

Three Bush Justice Conferences

The first of three Alaska Bush Justice Conferences was held in December 1970 at Mt. Alyeska in Girdwood. The meeting was sponsored by the Alaska Judicial Council, chaired by then Alaska Chief Justice George F. Boney. Participants included representatives from the Alaska Judicial Council, Alaska Legal Services, the Bar Association, Alaska Federation of Natives, the University of Alaska, and judges and staff from the Alaska Court System. Various aspects of bush problems were discussed at this conference. A number of resolutions were generated by this first conference which related to the improvement of the delivery of legal and other services to rural Alaska. The first conference also recommended that another justice in the bush conference be held.

The second Bush Justice Conference was held in Minto in June 1974. The second conference also issued a set of recommendations, many of them similar to those issued by the first conference. A Bush Justice Implementation Committee was selected at the conference. The Committee obtained funds from LEAA for a two-year Bush Justice Project and hired a staff for the project. The Bush Justice Project was housed at the Alaska Federation of Natives; David Case was selected as staff director. The Project developed a criminal justice film and other materials for use in rural Alaska, and helped arrange for the third Bush Justice Conference.

The third Bush Justice Conference was held in Kenai in October 1976. It was attended by about 300 persons representing Alaskan villages and cities, law enforcement, the court system, corrections and other government agencies. On the last day of the conference, a number of resolutions were adopted. These resolutions concerned the court system, law enforcement, liquor control, lawyer services, removal of Native children from their homes, the juvenile justice system and other subjects. These resolutions were put before the Alaska Federation of Natives Convention, where most of them were endorsed.

The three Bush Justice Conferences represent the first large-scale attempt to bring together representatives of all groups and agencies impacting bush life to discuss Bush justice concerns.

New Superior Courts in Rural Alaska

In early 1970, superior courts with resident judges were located only in Anchorage, Juneau, Fairbanks, Ketchikan and Nome. In November 1970 a resident superior court was created in Sitka, and in December 1970 superior courts were created in Kenai and Kodiak. In 1976 a resident superior court was established in Bethel. In 1979 a Kotzebue superior court position was created by the Legislature, but the first Kotzebue superior court judge has not yet been chosen.

Establishment of Bethel and Barrow Service Areas

In November 1973 (prior to the establishment of a resident superior court judgeship in Bethel), the court system created the Bethel Judicial Service Area situated in the Lower Kuskokwim/Lower Yukon region and including portions of the second and

fourth judicial districts. Prior to its creation, the existing air transportation patterns in the State made it extremely difficult and very time-consuming to provide judicial service to the Bethel area by utilizing judges from within the same judicial district. Prior to creation of the service area, judges from Nome (second judicial district) or Fairbanks (fourth district) had to spend excessive travel time to reach Bethel. With the creation of the Bethel Service Area, a Superior Court judge from Anchorage could use existing commercial airline ties connecting Anchorage with Bethel to regularly service this area.

Other justice agencies cooperated in the establishment of the Bethel Service Area. The Department of Law and the Public Defender Agency each assigned an attorney to serve the area. The Division of Corrections also designated a probation officer and employed two probation aides to assist him in Bethel.

The marked improvement in the delivery of judicial services with the creation of the Bethel Service Area provided the impetus for the establishment of the Barrow Service Area in May of 1974. Based on the same principle that judicial services could be effectively and efficiently provided by utilizing available transportation facilities even though this meant the crossing of the judicial district boundaries, judicial service is now provided to Barrow from Fairbanks rather than from Nome.

The Problem Board Project

The Problem Board Project was a federally funded experiment involving six western Alaska villages. The project began in 1975 when the court system obtained a grant from the Law Enforcement Assistance Administration to establish the six boards. The problem boards (also known as "conciliation" boards) consisted of from five to seven local citizens selected by either the village council or the general population of the village. The boards were established to hear and attempt to resolve disputes between the citizens of the villages. It was intended that the disputes brought to the boards would either not involve criminal conduct or would involve only minor criminal conduct. A major objective of the boards was to successfully resolve conflicts in a manner that would solve any underlying problems and deter future conflicts. It was hoped that the boards would be able to identify potentially dangerous situations and, by giving formal recognition to them and offering an alternative to retaliation, prevent minor incidents from escalating to major violence.

The boards did not have the power of the courts. Appearance before them was entirely voluntary and they had no real power to enforce their decisions since they could not impose a fine or a jail sentence. Each of the boards was supervised and assisted by either a magistrate or a judge.

The project began in early 1975 when six village councils were contacted and invited to participate in the project. Three of these six villages decided to participate and sent the board members they selected to a one-week training program held at Big Lake, near Anchorage, in mid-September 1975. This training session was conducted primarily by two representatives from the American Arbitration Association with the assistance of District Judge Nora Guinn from Bethel, Magistrate Ross Schaeffer from Kotzebue, and Susan Miller and Susan Burke from the Administrative Office of the Court System. The following spring, three more villages were added to the project.

The six villages which took part in the project were: Shishmaref (north of Nome, monitored by Judge William

[continued on page 16]

New Alaska Directory of Attorneys Off the Press

A new bright yellow covered Alaska Directory of Attorneys has just rolled off the presses in Anchorage. The latest edition of the semi-annual publication includes many new features, such as a map showing the borders of all four judicial districts and 34 recording districts, which were suggested by members of the Alaska Bar. The specially commissioned map will allow anyone to determine which judicial or recording district any community on the map is in. An adjoining chart shows the place of recording for all 34 districts, many of them not within the district.

The most recent edition of the directory contains other new features: a listing of all Alaska Court fees, active out of state and inactive Alaska Bar members, process servers, federal law enforcement agencies, the Alaska Judicial Council, the staff of the Bar Association and Alaska Legal Services.

Published by Todd Communications, an Anchorage publishing firm, directories sell for \$5 apiece. Copies can be ordered by mail or in Anchorage by calling Todd Communications at 274-4370. Todd Communications is located at 1126 F St., Anchorage, AK 99501.

The Winter 1979-1980 edition of the directory contains 96 pages, more than 50 percent larger than the 60-page edition published six months ago. The staff of the directory says it called every law firm, oil company

or employer of a bar member in Anchorage (where two-thirds of them live) and most of those in the remainder of the state to confirm the proper spelling of every bar member's name, as well as their business mailing address and telephone number. There are nearly 1,250 active members of the bar in the state. Active out of state members and inactive members brings the total to close to 1,450.

The directory staff spent more than three months locating every in-state bar member and getting a telephone number for them, a much more difficult task than it would appear at first blush. Many bar members in the state do not practice law. One is the president of a bank, another has run a soft pretzel shop in Juneau and one of the most difficult to determine an accurate listing for was working as a radiologist at an Anchorage hospital and living in the back of his truck at night. Others are mining gold and working as security guards on the North Slope.

Because of the tremendous amount of effort that has gone into obtaining accurate spellings, addresses and telephone numbers for every member of the bar in the state, Todd Communications has entered the information onto a disk that can be read by a computer and is capable of printing mailing labels for firms wanting to reach attorneys by direct mail. The first set of labels is going to the Alaska Bar Association for a mailing to its members.

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Arnold

[continued from page 5]

ment. This is basically the Phoenix system. Other proposals to the committee will be modifications, or hybrids, of this, such as a division of judges with some judges being assigned only criminal cases and other judges being assigned only civil cases and with all assignments being made early. Another variation is total individual assignment of cases with centralized calendaring. A further suggestion is that the presiding judge handle all criminal matters through the time of omnibus hearings, after which they would be assigned to individual judges.

The committee will then study the recommendations of Arnold and his staff and hopefully agree upon one which can be presented to the trial judges who will make the ultimate decision. The committee has already voted for early assignment of cases which dictates some type of individual calendaring system.

Pro-tem Judges

On the subject of pro tem judges, Arnold says that he personally is very much in favor of the use of pro tem judges and that a number of local lawyers have indicated their willingness to help out and many have offered to serve without pay. Arnold states that he has seen this system work well in California and that he can see no reason why it would not work well here. However, the Supreme Court is not likely to approve the idea of pro tem judges. According to Arnold, there is some concern about possible constitutional obsta-



Trust me!

cles or prohibitions. Instead, the Supreme Court has indicated that judges from other Judicial Districts will be heavily used in Anchorage to alleviate the present backlog. Initially, a contribution of approximately 15 months of judge time from other Districts had been contemplated. At the moment, it appears that about 10 months of additional judge time will be available to alleviate congestion in Anchorage. Until the Superior Court Judge for Kotzebue has been appointed, it will be impossible to say exactly how much actual time will be contributed.

Arnold noted that there are presently 8,000 pending cases. Without exaggeration he can say that in the past four months he has called at least 200 attorneys whose cases were on the trailing calendar only to be informed that they were not ready to go to trial. Arnold says that the "local legal culture" requires that attorneys get lots of notice of trial dates, but that under any new calendaring system instituted by the Superior Court, local attorneys will have to be available to go to trial when called.

Arnold describes the position he has held in Anchorage as a "utopia for court administrators." He has spent six outstanding years in Alaska.

He has had the opportunity to work with a great Bench, the members of which have always allowed him to present and argue his views. He also feels that he has been uniquely fortunate in his experiences with members of the Bar. He said, in comparing his position to those of other court administrators, he estimates he has received far more acceptance by members of the Bar than court administrators in other parts of the country.

Arnold has recently resigned as the First Vice President of the Na-



Give me a break. I'm retiring in a month.

Bush Justice

[continued from page 15]

Sanders), Kivalina (northwest of Kotzebue, monitored by Magistrate Ross Schaeffer), and the Bethel Service Area villages of Emmonak (monitored by Magistrate Dorothy Kameroff) and Napakiak, Kwethluk, and Quinhagak (monitored by Judge Nora Guinn). All six are Eskimo villages.

Most of the cases handled by the boards involved marriage or family problems (including alcohol related problems). The next most common type of case involved drunken and disorderly behavior in a non-marital context. Other kinds of cases were minor assaults and batteries, property damage cases, adult thefts, juvenile thefts, miscellaneous juvenile matters (including "gas sniffing" and cigarette smoking) and other civil matters (such as non-payment of bills for consumer items).

The boards did not handle a large number of cases. During the first 12 to 18 months of the project, three of the boards heard a total of only 32 cases. Two other boards heard a total of only 3 cases. The sixth board heard no cases at all.

An evaluation of the project began in late July 1976 and was completed in June 1977. The evaluation report, written by Anchorage attorney Doug Serdahely and anthropologist Judy Marquez, was sent to the Supreme Court in early July 1977. The 91-page report was generally favorable toward the problem boards, but emphasized the very limited nature of the services which could be expected from the boards.

In July 1978, the Supreme Court discontinued the experiment. The letter announcing the end of the experiment indicated that the Supreme Court had serious questions about whether the court system structure was appropriate for long-term placement of the problem boards.

Thirteen Multi-Agency Justice Buildings

In the years 1973-1975, the court system obtained grant money from LEAA discretionary funds for the construction of 13 multi-agency modular structures in rural Alaska. These structures house various justice agencies, but are primarily used by local law enforcement officials

tional Association of Trial Court Administrators. Had he not resigned, he would most likely have been elected President for the following year. He decided not to accept the nomination, even though he was personally urged to by many of his colleagues and was tempted to seek the position despite his retirement. His decision not to seek the Presidency was a product of his belief that the position should be occupied by somebody currently employed as a court administrator.

The Only Funk

Once retired, Arnold, who owns the only Funk (a 1946 airplane) in Alaska, plans to travel extensively. He has received several offers to do consulting work and is giving them serious consideration, however he does not intend to take another permanent 8:00-5:00 job. He also plans to build a home which will use solar energy exclusively.

At this time, Arnold's successor has not been chosen. The position has been widely advertised and it is expected that the most promising applicants will be invited to Anchorage before a final decision is made. Although Arnold says that he does not plan to leave a mess for his successor, he does say that the next person to occupy his position will have a very big learning experience in store for him or her.

and the local court.

These modular structures were built in the villages of St. Mary's, Emmonak, Selawik, Kiana, Aniak, Gambell, Pt. Hope, Noorvik, Angoon, Galena, Hooper Bay, Mekoryuk and Savoonga.

The Two Magistrate Advisory Committees

The first Magistrate Advisory Committee was created in spring 1973 by the Alaska Supreme Court. The Committee, chaired by Supreme Court Justice Roger Connor, was asked to examine the needs of Bush magistrates and to make recommendations about these needs to the Supreme Court. In 1974 the Committee made a number of recommendations to the Supreme Court about magistrate jurisdiction and changes to be made in the supervision of rural courts.

The second Magistrate Advisory Committee was created in early 1976 to evaluate the magistrate system in rural Alaska. The Committee, chaired by Chief Justice Jay Rabinowitz, studied a variety of subjects, including magistrate salaries, criteria for locating magistrate posts and the long-range role and function of the magistrate system within the Alaska Court System. The Committee sent its final recommendations to the Supreme Court in February 1979. These recommendations included proposals for circuit judges; magistrate selection, retention and removal; magistrate training and various other subjects. The Alaska Supreme Court has not yet considered the Committee's report. Supreme Court consideration was postponed because a case then before the Supreme Court concerned some issues also addressed in the Committee's report. An opinion in the case in question was issued in December 1979.

Magistrate Jurisdiction

Although little legislative change has been made in the jurisdiction of magistrates, superior court master's appointments for magistrates have become much more common in recent years. Presently, all magistrates in the first and second judicial districts and the majority of magistrates in the third and fourth judicial districts have been appointed superior court masters to hear children's proceedings.

Additionally, many magistrates are superior court masters for domestic relations, probate and other purposes.

Havelock

[continued from page 9]

Law has failed in its lofty ambition to reform democratic decision making. Participatory democracy and the hearing process run amuck, and have sapped confidence in the democratic system. Public participation lies somewhere between sham and anarchy. Despite successful legislative campaigns to reform the election process by limiting the rule of money (blunted in part by a naive Supreme Court decision), the control of politics continues to be in the hands of hard-headed financial elites.

The decade which opened with special pleas to heed the interests of the hungry of the world has pitched downhill to a closing use of self-defeating, agricultural embargo. The agricultural plenty which is one of the world's great hopes for food is to be sacrificed to the sacred altar of the automobile.

Failure of legally designed solutions to public problems have left the cynic in ascendancy as the decade closes; a revival of laissez-faire celebration of narrow self interests is upon us which can lead only to further national decline and consequential international confusion.

Counsel to our collective destinies must be better craftsmen in the eighties. There is no other choice.

Inside Outside

[continued from page 6]

Help From Local Bar Associations

A sub-group of the Atlanta Bar Association is running a free phone consulting service for young or ex-lawyers called SCOPE (Seek Counsel of Professional Experience). Over 200 lawyers volunteered to provide free informal counseling to lawyers unfamiliar with particular legal issues via phone conversations of up to ten minutes. After receiving advice, the inquiring attorney may seek to resolve the case on his/her own; associate experienced counsel; or refer it to a more experienced lawyer. The referral possibilities have undoubtedly motivated participation by experienced attorneys. Conflict of interest is presumably avoided by disclosure of known or probable parties and attorneys in the case. Although a disclaimer may be provided that neither the Bar Association nor the consultant attorneys make any representations of quality of advice or assume any liability for advice given under the program, the arrangements may expose participants to malpractice claims. Neither the liability nor the conflict of interest potentials, however, should dissuade Alaska Bars from discussing the concept given that most local bars are in areas where the lawyer population has doubled in the past five years.

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