

# The Alaska BAR RAG

Volume 4, Number 1

Dignitas. Semper Dignitas

Hard to Believe It's Still January Edition! \$1.00

## Judicial Candidates

The Alaska Judicial Council has received eight applications for the position of superior court judge for the First Judicial District at Juneau. This position was created by the appointment of Judge Allen T. Compton to the Supreme Court. The applicants are:

### Linn H. Asper

Mr. Asper is currently legislative counsel for the Department of Legislative Affairs in Juneau. He has been a resident for the last eleven years and is 36 years old. Mr. Asper has practiced law for the last eleven years. Mr. Asper was a staff attorney for Alaska Legal Services Corp. for two years then became acting supervising attorney for 3 months, he was also in private practice, an assistant public defender, acting district court judge in Juneau, and an assistant public defender for U.S. Trust Territory of the Pacific Islands.

### Walter "Bud" Carpeneti

Mr. Carpeneti is currently in private practice in Juneau. He has been a resident of Alaska for the last seven years and is 35 years old. Mr. Carpeneti has practiced law for the last eleven years. He was a law clerk for Justice Dimond, private practice in California for three years, and supervising attorney for the Juneau office of the Public Defender Agency. He is a member of the American Bar Association, was a member of the Alaska Supreme Court's Rules of Evidence Committee and was also a member of the Alaska Judicial Council.

### James E. Douglas

Mr. Douglas is currently in private practice. He has been a resident of Alaska for the last seven and one half years and is 37 years old. Mr. Douglas has practiced law for the last seven years. He was an assistant attorney general in Juneau and Fairbanks, an assistant district attorney in Fairbanks.

### Douglas L. Gregg

Mr. Gregg is currently in private practice in Juneau. He has been a resident of Alaska for the last 32 years and is 54 years old. Mr. Gregg has practiced law for the last 22 years. He was a law clerk for two years in Oregon and two years for attorney general J. Gerald Williams, an assistant attorney general, and in private practice for 20 years. He was president of the Juneau Bar Association and a member of the American Bar Association.

### Peter M. Page

Mr. Page is currently in private practice in Juneau. He has been a resident of Alaska for the last 15 years and is 45 years old. Mr. Page has practiced law for the last 15 years. He was an assistant U.S. Attorney for 2 and one half years, an assistant district attorney, an assistant attorney general for four and one half years, district judge in Sitka for two years, employed by the city attorney in Sitka for two years. Mr. Page is a member of Vir-

ginia State Bar Association, American Bar Association and Association of Trial Lawyers of America.

### Rodger W. Pegues

Mr. Pegues is currently an assistant Attorney General in Juneau. He has been a resident of Alaska for the last 7 and one half years and is 48 years old. Mr. Pegues has practiced law for the last 16 years. He was house counsel for the National Park Service in Seattle and Washington, D.C. for six years, private practice in Washington, lobbyist for coalition for environmental organizations for two years in Seattle. He is a member of the Washington State Bar Association.

### Richard A. Svobodny

Mr. Svobodny is currently an assistant district attorney in Juneau. He has been a resident of Alaska for the last seven years and is 32 years old. Mr. Svobodny has practiced law for the last seven and one half years. He was an assistant attorney general in Juneau for two years, an attorney with the trust territory of Pacific Islands, assistant attorney general in Juneau for two years. He is an inactive member of the Oregon State Bar Association.

### Robin L. Taylor

Judge Taylor is currently a district court judge in Wrangell. He has been a resident of Alaska for the last eleven years and is 37 years old. Judge Taylor has practiced law for the last eleven years. He was an intern for a private law firm, and in private practice for six years. He was Chairman of the Bench Bar and Press Committee of the Alaska Bar Association.

The Judicial Council is a constitutionally created agency of state government. It reviews all applicants for judicial vacancies, nominating qualified candidates to the Governor for his appointment. It also has a statutory duty to conduct evaluations of each judge and justice running for retention and to provide information to the public about these judges.

The Council is composed of three non-attorney members appointed by the Governor (Ken Brady, Anchorage; Bob Moss, Homer; and John Longworth, Petersburg) and three attorney members elected by the Alaska Bar Association (Marcus "Randy" Clapp,

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Al Szal

## First Prize Poetry Contest Winner

### Lament of the Fly Fisherman

I wish I'd catch a fish  
As fancy as my flies.  
They float in feathered splendor,  
Catching only lies.

I wish I'd hook a fish  
That's worthy of my gear.  
To pay back Kaufman Streamborn  
Will take at least a year.

I wish I had a fish  
To mount upon a plaque.  
But all my casts have caught  
Is a two-inch stickleback.

That's not so bad, I guess,  
As catching only bats,  
Or seeing that the fish  
Prefer to eat live gnats.

I wear my Connemara  
And my twenty-pocket vest,  
But I'd trade a ten-inch trout  
For Eddie Bauer's best.

The fish will barely nibble  
At my finely-baited hook,  
The mosquitoes bite at everything:  
None of it's by the book.

The book—it's most explicit  
About varieties of rise,  
And tells you how to cast  
If you see their beady eyes.

But they rise and sip and twinkle,  
In the evening sun,  
Splash the water into wrinkles  
As they wink at me in fun.

Give me just one Dolly!  
I've been here since the dawn;  
Everyone around me  
Has triumphantly long gone.

As I warm my freezing fingers  
Pack my tackle up,  
The last fish leaps and lingers  
Flaunting his chance to sup.

It's not a sport for cowards,  
Everest demands much less.  
The courage of the angler  
Lies in leaving with noblesse.

I'll be back again tomorrow  
Stalking the wary trout.  
And one of these days—you watch—  
I'll finally wear him out.

—Teri White

## Szal Springs Calendaring Changes on Anchorage Bar

Al Szal, Third District Area Court Administrator, addressed the Anchorage Bar Association on February 2, 1981 concerning changes in Anchorage calendaring procedures. Effective January 1, 1981, a new calendaring order will:

Create a criminal division which is to be composed of three (3) judges, plus the presiding judge.

Create an early-assignment individual calendaring system for a six (6) judge civil division.

### Individual Civil Calendar

By adopting the individual civil calendar system, it is understood that a judge of the civil division and his staff will calendar all matters in all civil cases assigned to them. Each judge will be expected to provide his calendaring schedule to central calendaring daily to allow central calendaring to issue a combined daily trial calendar for the entire court.

One (1) criminal division judge will serve as a floating judge to include travel to the bush to handle both criminal and civil matters, handling of overloads on criminal or civil dockets in Anchorage, and whose assignment shall be by the presiding judge via central calendaring.

### Hearings

The presiding judge may reassign the following hearings: temporary restraining orders; preliminary injunctions; prejudgment attachment hearings; other priority matters as required by rule or statute; criminal trials that cannot be handled within 120 days by the criminal division; other trials when the judge to whom a case is assigned cannot handle the matter, and the floating judge cannot handle the matter, and no other judge has agreed to handle the trial, and an emergency situation exists for the parties to the litigation.

Assignment of administrative appeals will be assigned to individual judges by the presiding judge through the appeals clerk on a rotating basis.

All dispositive motions will be set by the central calendar division for Friday afternoons from 1:30 p.m. to 4:00 p.m. All other motions will be scheduled by the individual judge.

### Domestic Relations

Contested domestic relations cases will be assigned by the presiding judge through the central calendaring division in the following priority order: (1) to the judges in the criminal division, (2) to the floating judge, and (3) to the judges in the civil division.

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<sup>1</sup>In the interests of Justice we have abandoned the Gregorian Calendar and adopted the Court System Calendar in which real time is a matter of indifference.

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## ALSC Hires New Director

Keeping the fences mended with the National Legal Services Organization, the Alaska Bar and Alaska clients are among the top priorities for Alaska Legal Services' new executive director, **Ralph Knoohuizen**.

Knoohuizen said that he sees his organization as a vehicle for providing lawyers for people who could not otherwise afford legal services. With 10 area offices, 35 attorneys and 50 other staff members under his supervision, Knoohuizen also set a high priority on continued funding for his organization.

Knoohuizen told the *Bar Rag* that his name is a Dutch name and is pronounced "New Hizen."

The West Texas native said he first came to Alaska last fall to visit his sister. Having lived in Alaska for six years, she convinced him to come up for a visit. Knoohuizen said he put off coming to Alaska because he knew he would like the state and that would mean severing ties with Texas. The new executive director was so taken with Alaska that he sought employment with the organization he now heads.

Before coming to Alaska Knoohuizen was supervising attorney with the Texas Legal Services in the town where he was born, Plainview, Texas. The 36-year-old Yale Law School graduate reported that his work there was typical legal services work except that a large part of it was federal civil rights litigation.

Knoohuizen expects that his experience in West Texas will have some parallels in Alaska, because his work there was with a minority group as well. He also believes he has some understanding of the isolated feeling some of his employees may have at some of the Alaska Legal Services bush offices.

Before the Texas Legal Services job, Knoohuizen directed the Chicago Law Enforcement Study Group. That public interest group investigated allegations of police misconduct.

Knoohuizen likes cold weather, outdoor sports, basketball and reading. He expects to expand his interests to include cross-country skiing. He sees Alaska as the ideal place for outdoor sports and looks forward to a challenging position with ALSC.

## Public Defender Candidates

The Judicial Council is a constitutionally created agency of state governments. It reviews all applicants for judicial vacancies, nominating qualified candidates to the Governor for his appointment. The same procedure is followed for the Public Defender position.

The Judicial Council has scheduled a meeting for March 31 and April 1 in Juneau to interview and nominate the candidates to the Governor. The Judicial Council encourages public comment on any of the candidates.

### David G. Berry

Mr. Berry is currently an assistant municipal attorney for Anchorage. He is 33 years old. He was attorney for the Staff Judge Advocate at Fort Richardson for 2 years, legal intern for six months for L.A. City Attorney.

### Ben Esch

Mr. Esch is currently in private practice in Anchorage. He is 36 years old. He was an assistant public defender for two years. Mr. Esch is on the Board of Directors of Akeela House, a member of the Greater Anchorage Area Advisory Board on Drug Abuse and member of the Statutes, Rules and Bylaws Committee of the Alaska Bar Association.

### Dana A. Fabe

Ms. Fabe is currently Acting Public Defender for the Anchorage office of the Public Defender Agency of which she was previously an assistant public defender for 3 and one half years. She is 29 years old. She was a law clerk of Justice Burke, civil procedure tutor for the Northeastern University, intern for private law firm in Hawaii, legal writing instructor for Northeastern University, intern for private law firm in Boston, intern for private law firm in Kentucky, intern for private law firm in Montana. Ms. Fabe is currently a member of the Alaska Board of Bar Examiners, lecturer in criminal law at Anchorage Community College, and Vice-President of ACLU, and a member of the Anchorage Association of Women Lawyers, and a member of the U.S. Supreme Court Bar.

### Rene J. Gonzalez

Mr. Gonzalez is currently the U.S. Attorney for the District of Alaska. He is 39 years old. He was a Chief Assistant U.S. Attorney for one year, assistant U.S. Attorney for two years, assistant U.S. Attorney in Texas for three years. Mr. Gonzalez was the Vice-Chairman of Advisory Committee on Judicial Sentencing Practices, co-founder of Hispanics-Alaskans, Inc.

### Nancy J. Shaw

Ms. Shaw is currently an assistant public defender in the Anchorage office of the Alaska Public Defender Agency. She is 31 years old. She was a student with the Alaska Public Defender Agency,

in private practice for two and one half years, counsel to the California Fair Employment Practices Commission for one year, private practice for one year in California. She is the secretary-treasurer of the Anchorage Council on Drug Abuse, member of the California State Bar Association, and the American Trial Lawyer's Association.

### Roy V. Williams

Mr. Williams is currently a Committing Magistrate for the Alaska Court System in Anchorage. He is 46 years old. He was a supervising assistant public defender for seven years in Sacramento, California, an assistant public defender for six years in California, Adjunct Professor of Law at McGeorge Law School in California for four years, Pro-Tem Referee of the Juvenile Court in California, Lecturer on the Continuing Education of the Bar Panel in 1973, law clerk for the U.S. District Court in Los Angeles for two years. He is a member of the California Bar Association, member of the Citizen's Advisory Committee for the Eagle River Correctional Center.

### Sue Ellen Tatter

Ms. Tatter is currently in private practice in Anchorage. She is 34 years old. She was an assistant public defender for three years in Anchorage, attorney and law clerk for an Anchorage law firm for three years, legal intern for Legal Aid Society in New York in 1973. She is a member of the Alaska Bar Review, Inc., member of the Anchorage Women Lawyers Association, member of the Governor's Commission on the Status of Women, participated in the State Court Committee for Sentencing Guidelines, lecturer at Anchorage Community College.

## JUDICIAL CANDIDATES

[continued from page 1]

Fairbanks; Joseph L. Young, Anchorage and one vacant position), and Chief Justice Jay A. Rabinowitz, ex-officio chairman of the Judicial Council.

The Judicial Council has scheduled a meeting for March 31 and April 1 in Juneau to interview and nominate the candidates to the Governor. The Judicial Council encourages public comment on any of the candidates.

## IMPORTANT ANNOUNCEMENT To All Active Members, Alaska Bar Association Employment Announcement

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

Applicants for this position must be admitted to the Alaska Bar and be available for employment on April 15, 1981. Salary is negotiable. Experience in the practice of law will be an important selection criteria.

Application and resume must be submitted to the Board of Governors of the Alaska Bar Association on or before March 21, 1981. For additional information, please contact the Association office.

## Association of Family Conciliation Courts Meet

by Francis M. Stevens

The 19th Annual Conference of the Association of Family Conciliation Courts will be held May 13th-16th, 1981 in Indianapolis, Indiana. This conference, which was held in Anchorage last May, attracted considerable attention from a number of members of the Bar.

The 1981 conference will have as its theme "The Changing Shape of Families." It will concentrate on the impact of these changes for judges, lawyers, and mental health professionals who work with families involved in dissolution.

A public forum, which will be held opening evening, will deal with violence in the families and the speaker will be Dr. Murray Strauss, a noted authority on family violence. Other participants in the program will include: John and Emily Visser, authors of the new book, *Stepfamilies*; Robert Weiss, author of *Marital Separation and Going It Alone*; James Levine, author of *Who Will Raise the Children?*; William Nichols, current president of the American Association for Marriage and Family Therapy.

Ann Landers will be the guest speaker at the Thursday luncheon, and her topic will be "What Families Wish Judges, Lawyers, and Counselors Knew About Divorce."

Workshops will include subjects such as "Money and Kids—The Facts are Related"; "Techniques of Reconciliation Counseling"; "Communication Between Lawyers and Mental Health Professionals"; "Varieties of Court Structures"; and "Custody Mediation."

Details on the conference could be secured by calling the Custody Investigator's Office in Anchorage, at 264-0428.

## Pending Juneau Cases

All cases currently pending before the superior court at Juneau, Alaska, will be assigned to Presiding Judge Thomas B. Stewart, pending appointment of a replacement for Judge Allen T. Compton. This assignment is made for all purposes including trial, subject to calendar limitations and disqualifications.

There are two exceptions to this general assignment: first, cases previously assigned to Judge Compton, because of disqualification of Judge Stewart, will be reassigned to another superior court judge; second, cases in which a previous specific assignment has been made to a judge other than Judge Compton or Judge Stewart will remain so assigned. Counsel are asked to notify me of cases that fall into the first of these exceptions at their earliest convenience. All pending pre-trial and trial schedules will remain intact unless a motion to alter the schedule is made or the court otherwise orders.

Your cooperation in administering the calendar during the interim period necessary to fill Judge Compton's superior court vacancy will be appreciated.

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# Bar Referral

What with increased advertising in newspapers and the radio and television, and in view of the Alaskan citizen's propensity to go to court at the drop of a oosik, the number of people utilizing the services of the Bar Association's Lawyer Referral Service has dramatically increased in the last six months. Since July 1980, calls to the Service have increased 34 percent. In addition, because of the increased cost to attorney subscribers in mid-1980, the number of attorneys participating has dropped considerably, so that many of the current subscribers are getting more calls than ever.

Below are the statistics regarding Referral Service activity during the final quarter of 1980.

Admiralty	7
Administrative Law	70
Bankruptcy	17
Commercial	206
Consumer	22
Criminal	87
Eminent Domain	2
Discrimination	9
Family	430
Immigration	18
Labor	37
Landlord/Tenant	47
Mining	6
Negligence	111
Patent/Copyright	11
Tax	12
Traffic	57
Trusts, Wills, Estates	35
Arts	12
Environment	3
Community Legal Asst.	1
Foreign Speaking	2
<b>TOTAL NUMBER OF CALLS</b>	
<b>IN QUARTER</b>	<b>1,202</b>
<b>Weekly Average</b>	<b>92.4</b>
<b>Daily Average</b>	<b>18.5</b>

# Second Prize

## Admiralty Island

I would like you to photograph these three things: an eagle's feather, the jaw of a sea lion, and the shell of a hermit crab. I found them along the beach of Lobaugh's homestead:

where we collected the bones of trees for our fires;

where we stood beneath wet cliffs of sandstone slabs and massive, splintering slate;

where we chased away the spirits of the old people of the island who speak now through the voices of crows, and gather each morning around the fire ring in the trees near the cabin;

where the mountains and moving clouds

across the channel from our shore formed subtle water colors, and you imagined you spoke, if at all, in the healing quiet of haiku;

where the smoke from the cabin filtered out low through the trees and skimmed the shore grasses on its way to merging with the mists;

where we hung up wet coats, sweaters, shirts, pants and socks on pegs above the oil drum stove, and changed into dry clothes and drank hunters coffee to warm ourselves;

where we turned back our collars and washed our hair as an awesome wind blew, and the motion of that green forest of trees

sped through our blood;

where we played hearts in the evenings by lamp light, and drank wine by the glass and sweet rain-water-run-off by the plastic pitcher full;

and where the weather kept us captive on the island for one wonderful day.

Ask me why it is those three short days will always be remembered and I will tell you how much our forefathers still breathe in us, under the trees, by the shore, and in our hearts when near the wilds. Believe it.

The sadness we feel must come from some prescient knowledge they give to us, an inchoate understanding that love and beauty are as fleeting as the view of a mallard winging away across the soft folds of a low tide.

—Randall P. Burns

# Judicial Selection

At its meeting of January 23, 1981 in Fairbanks, the Alaska Judicial Council approved a checklist of judicial selection procedures. While the list is not binding on the Council's actions, it provides a look at the steps which the Judicial Council takes to investigate applicants for judgeships.

The timeframe for the process is about three to five months, including the 45 days which the Governor may take to make his appointment from the list of nominees submitted by the Judicial Council. The first steps, notification of the Bar Association members and receipt of applications take about six weeks.

Candidates provide the Council with a completed application which includes information about education, work experience, community activities, disciplinary actions, business associations, financial status, and public service. In addition, they submit a writing sample, physician's certification of good health, five references, and a list of cases in which they have recently appeared.

The survey of the Bar Association and a request for public comment are the next steps. The five to eight weeks which lapse between the deadline for applications and the scheduling of the Council meeting at which candidates will be interviewed allows time for return and analysis of the Bar survey, and receipt of letters and comments from interested persons. Additional investigation may be done during this time by the Council members or staff to answer questions raised by applicants or comments.

Interviews are scheduled for each judicial applicant. Normally, the Judicial Council meets in the city where the judge will reside, to allow maximum opportunity for citizens and

others to appear if they desire. Interviews typically last about half an hour, though may be considerably longer. Applicants may respond to questions raised during the investigative process, or comment about the Bar survey. Council members may probe the candidate's willingness and proven ability to handle the pressures of a judgeship, his legal skills and knowledge, or other aspects of his experience relevant to the judgeship.

The final decision about which candidates merit nomination to the Governor is discussed and voted upon after all interviews have been completed. The Governor, applicants, and press are notified at the earliest opportunity. Should the Council decide that only one or none of the applicants are qualified, it reopens the application process (the Constitution requires that a minimum of two names must be sent to the Governor).

The Judicial Council's next meeting has been set for March 31 and April 1 in Juneau. Applicants for the Juneau superior court seat vacated by Judge Compton's appointment to the Supreme Court, and for the Public Defender will be interviewed at that time.

The Council has also scheduled further discussion of judicial selection and evaluation procedures for that meeting. The format and confidentiality of the Bar Survey, the judicial selection procedures, and judicial evaluations are issues about which many attorneys have informally commented to the Council during the past year. Members of the Bar Association are invited to send written comments on these topics to the Council prior to March 16.

Contact: Teresa J. White, Executive Director, Alaska Judicial Council, 279-2526.

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## ALASKA STATUTES

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# Report from the Anchorage Bar Association

by Vincent Vitale

Recently, a disgruntled colleague described the private practice of law as follows:

You stay one step ahead of the fee arbitration committee, two steps ahead of the malpractice carrier, and three steps behind the eight ball. The primary goal is avoiding malpractice, ulcers and overdue rent notices. If all goes well, you can expect a partial fee and no thanks...and if this isn't bad enough, even the politicians are after us.

Even allowing for his recent loss of a large contingent fee case, one must assume that he was having a bad day.

During the next year, the Anchorage Bar Association will ask some members to shed the increasingly fashionable pessimism prevalent in the Anchorage Bar. We're going to start by working with the Alaska Bar Association in a lobbying effort on Sunset legislation.

### Legislative Work

The Anchorage Bar has strongly endorsed the continuation of the Alaska Bar Association in its present form. The Anchorage Bar Association will oppose the addition of laymen to the Board of Governors. There is widespread concern that political appointees may be primarily concerned with political issues when ruling on grievance, fee or ethical matters. This concern is justified.

One can imagine how well the Zobel attorneys or others representing unpopular causes would fare at the hands of politically-appointed board members. Lay members could serve at their own pleasure without the restraining effect of reporting to a constituency. The Anchorage Bar Association Board believes that substantial layman involvement at the investigative stage of fee and grievance matters is sufficient.

Some lawyers argue that the addition of laymen would be a useful political sop. However, substantial permanent changes in how the legal profession is governed can't really be justified on so cynical a basis. Professional independence is in the public interest and the addition of laymen to the Board of Governors doesn't promote that goal.

Recent developments suggest that our legislative efforts may be successful. If we do nothing else, we may convince legislators to determine whether there is a problem before they look for a solution.

### Continuing Legal Education

In addition to the large CLE programs sponsored by the Alaska Bar Association, the Anchorage Bar Association will sponsor a series of mini-CLE programs lasting from one to two hours during occasional Monday lunches.

Our involvement in CLE started with a recent program on the new UCC forms. While the subject matter may have sounded dull, it is the stuff of which malpractice is made. The fifty-five attorneys who attended this luncheon took one step toward protecting their E&O coverage.

We will have additional programs covering changes in tort and estate law and whatever else seems appropriate. These meetings will be geared to the general practitioner.

Also, we are putting together a tape and video-tape library of pre-packaged CLE materials which will be made available to Anchorage Bar Association members without cost. In a few weeks, we will publish a list of the available tapes.

### Liaison with the Court

What administrators believe to be minor changes at the trial level can have major effects on the average practitioner and his client. We are attempting to avoid surprises by having court

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# EDITORIAL

The *Bar Rag* is bullish on poetry. The future of the art looks especially bright from our viewpoint, provided our readers continue to produce work of the quality submitted in our First Annual Poetry Contest and printed throughout the pages of this issue. Recklessly optimistic, we decided to publish all of our poets in this edition—hoping that they will be generous with their talents and give us more of their works in the future.

The judges decided that some of these poems are better than others, but we think all of them have merit. There are winners here, but no losers. We wish we had the resources to afford more than just three prizes and to reward the others with more than just publication and our thanks.

—Harry Branson

# Random Potshots

by John E. Havelock

"Proposing A Preemptive Change to the Preemptory Challenge"

One of the foolishnesses that courts sometimes get into is finding their own legislative power has been exercised in an unconstitutional manner. When rules of court pose clearly visible problems, you would think that the court would move to adjust the rule without waiting for someone to raise a constitutional claim in litigation.

Such a problem has been clearly visible for the last few years with the preemptory challenge. The preemptory challenge is a much loved and useful tool to the trial lawyer. Certainly any effort to eliminate this device would be met by uproar in the bar. Perhaps the preemptory challenge rule is left alone because the court sees its choices as all or nothing. This is not the case.

For those of you who don't see any reason why the preemptory challenge is challenged, a brief discussion is due. Voir dire and the challenge process are theoretically designed to produce a jury unbiased in the case while still representative of the community (we are speaking here of public purposes not the pragmatic intentions of lawyers). Skillful voir dire will lay a foundation for challenges for cause but there will still be persons on the panel who you know are biased but for whom a foundation for removal can't be fully laid. For disposing of this bothersome potential juror, the preemptory challenge serves a critical purpose.

### Socio-economic Screening

But as the availability of socio-psychological knowledge and sophistication of attorneys has evolved over the past half century, the utilization of the preemptory challenge has changed. While that possibly biased juror is still there, the exercise of the challenge is directed principally at defeating the representative character of the jury in order to produce a body favorably biased to the client. Rather than bumping jurors based on characteristics personal to them which give away their biases, the contemporary jury is screened on a socio-economic profile. This screening produces a bias which is in many cases invidious. The most obvious example arises in the case of blacks or other racial minorities and this is the area where the constitutional challenge will one day topple the rule.

### Study or Change

In their adjudicative role, courts have said, (for example *Swain v. Alabama* 380 U.S. 202 (1965) and *People v. Wheeler* 583 P.2d 748 (1978)) we will require you to undertake sociological studies to prove what lawyers know instinctively—that, for example, if you want to win, in most cases it makes good sense to knock black jurors off a jury trying a black person. Since most prosecutors want to win, the temptation will usually be yielded to. If it isn't and the case is lost, the prosecutor will regret his decision, blaming it on that factor.

Because the courts are looking at it in an adjudicative mode, the problem is caught in a stall for the time being. But in their legislative mode, the courts have a responsibility to do something about the problem either by investigating it themselves, if caution is thought warranted, or by acting to change the rule on intuitive knowledge.

### Using Sociologists

The problem is, of course, much larger than one of invidious discrimination against racial minorities. We know so much now about socio-economic determinants of decision making that every juror has some kind of a minority classification that can be indexed to his decisional bias. The preemptory challenge is not just a device

(continued on page 5)

# Letters to the Editor

### The Word

Dear Editor:

How is it possible that you, my mild mannered friend, could suddenly be transformed into a purveyor of pornography and disseminator of smut? You run the risk of being identified as an Alaskan Larry Flynt.

Imagine my horror at reading the *Rag* last month and seeing *The Word* right there in print. TWICE! One other time in my 41 years I had the shocking experience of seeing *The Word* in print and it took me many years of psychological counseling to return to my normally moral, uncontaminated self. Now all those years of therapy have been reversed by your scurrilous publication.

It is certainly true that Mr. Fraties makes a very good point in his attempt to show why the public does not fully understand the function of lawyers. It is also true that in doing, he provides some very enjoyable entertainment for 95% of the readers. But he didn't have to use *The Word*. He could have written ----ed. Then only those with truly dirty minds would be able to discern the real meaning.

The same is true with regard to Monroe Clayton's letter. He too could have written ----ing. Undoubtedly the letter would have been less shocking, less outrageous and certainly less funny, but those of us out here in the real world would not have our tender sensibilities offended.

Now don't get me wrong, Harry. I mean, you know I believe in the first amendment—freedom of speech and freedom of the press and editorial license and all that. But there must be a limit, right?

If a person is not free to yell "fire" in a crowded theater, you should clearly not be allowed to print *The Word* twice in sixteen pages of material about homogenized sentences and proposed amendments to bylaws. The same sort of dangers do exist and should be clear to anyone. What if a potential deviant innocently perused the *Rag* and saw *The Word* in print?

You know that my prayers have always included you as editor of the *Rag*, but if this outrageousness continues I won't pray for you any more.

Sincerely,  
James R. Blair

### Jury Instructions

Dear Editor:

The Pattern Civil Jury Instructions Committee is continuing its work and now has draft instructions available on the following topics:

- Pre-evidence, midtrial, and closing Negligence
- Survival and Death Claims—Damages
- Motor Vehicle and Highway Safety
- Liability of Land Owners
- Products Liability
- Professional Malpractice
- Assault and Battery (Civil)
- False Imprisonment and False Arrest
- Defamation
- Fraud and Negligent Misrepresentation
- Intentional Interference with Chattals, Conversion, Replevin, and Trespass
- Intentional Interference with Contracts
- Bailments
- Legal Relationships
- Contracts
- Will Contest
- Eminent Domain
- Landlord-Tenant
- Trespass and Nuisance
- Damages (generally)

Many Bar members have requested some or all of the instructions and some have responded with well written and researched comments. The Committee would like to hear from more members of the Bar and is eager to receive any and all suggestions. Please let me know if you would like all or a portion of the instructions. Keep in mind that the instructions at this stage are drafts and may be incomplete or contain errors. If you find a problem with any instruction, please let me know.

The Committee has just completed its review of the instructions for contracts, products liability, and general negligence principles. Those instructions plus case annotations, use notes, and Committee and Bar notes will be ready for distribution shortly.

I would appreciate your publishing this letter in the *Bar Rag*. Best wishes for the New Year.

Very truly yours,  
Bailey & Mason  
Julian L. Mason

(continued on page 9)

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# All My Trials

by Gail Roy Fraties

A number of legal secretaries among my faithful readers have inquired concerning the care and feeding of litigators, particularly while they are in trial. It is a matter of some concern to these ladies that we tend to become a bit testy at such times, and I feel that a few simple rules, scrupulously observed, will go far to alleviate matters:

(1) Don't argue with them—they're getting enough of that in court. Don't expect them to answer telephone calls, either. Most of them only live as long as they do because the Angel of Death got tired of waiting on hold.

(2) A quiet, submissive "Yes, Bwana" is a proper response to any reasonable request.

(3) All requests are to be treated as reasonable unless deemed otherwise by a joint meeting of the Ethics Committee and Board of Bar Governors.

(4) If you must strike a trial lawyer, never do it with your open hand. A folded newspaper is better, as the noise frightens them.

## Special Appearances

They're all schizoid anyway. Sociologists have pointed out that the thought processes of the normal human being are deeply affected by the native language spoken, and trial lawyers are taught to say "special appearance" when they really mean that their prospective client is peddling his lungs to come up with a minimum retainer. "Interests of justice" means the fix is in, and, "Does your Honor feel that this is an appropriate place to break testimony" means that the proponent of the question can feel his back teeth floating, and wants desperately to make a pitstop. The examples are endless, but none of them are consistent with coherent thought.

## Baha Mohammed

In the embattled arena of the courtroom, as well, the lawyers, judges and court personnel tend to become somewhat blasé. Jurors and clients (at least those who are not recidivists) approach their duties with a certain freshness of outlook, but the lawyers have seen it all. Consider the case of *State v. Lloyd Leon Davis, a/k/a "Baha Mohammed,"* in which I participated some years ago.

I was a prosecutor in Monterey County in those days, and Baha had been a thorn in everybody's side. He

quite rightly suspected that the District Attorney's office was out to get him, and when he was convicted by an all white jury of armed robbery, he took the occasion to address them on their shortcomings. This resulted in an altercation between the Defendant and several large sheriff's deputies, and his removal from the courtroom in a less than ambulatory condition. He had shouted his observations directly into the faces of the panel, leaning over the jury rail to do so, and when he was forcibly removed they sat there stunned and noticeably whiter than usual.

Defense counsel **George McInnes**, who had been knocked down several times while trying to reason with his client and intervene in the fracas, was now quietly talking to the court reporter. This young lady was new in the service, and seemed a bit overwhelmed by Mr. Mohammed's impromptu address—including, as it inevitably did, a routine expletive dealing with Oedipal relationships. George's quiet voice could be heard in the rapt silence, "Yes, I know—but that's what he said. Capitalize the M and the F—and I think it's hyphenated." Superior Court Judge **Stanley Lawson**, ever the pedant, intervened. "It's all one word when it's used as a predicate nominative," he added.

It's this sort of daily experience that probably results in the litigators acting a little bit different than the other lawyers in the office, ladies. You have to make allowances for them, even if they seem a trifle self-centered. These people aren't estate planners, they're combat types—and, basically, your trial lawyer is not an intellectual, but a pragmatist. He's out to get results.

## The Uses of Power

Show me the prosecutor who hasn't hung a snitch jacket on a street type that's crossed him, and I'll show you a man who doesn't understand the uses of power. I remember a case years ago where we had failed to convict a particularly bad actor of any of his various brutal rapes, but finally managed to get him on an aggravated assault. The word was put out in the prison population that although he masqueraded as a macho, he was really a blatant homosexual. "He'll fight and kick," the message went, "but once you really get cooking, he just goes crazy." His subsequent therapy at the hands of his ardent fellow prisoners was swift, dramatic and effective. If that doesn't meet the Alaska Constitution's twin objectives of rehabilitation of the individual and protection of the public,

what does?

## Sudden Death

Fairbanks trial lawyer **Bill Brattain** has observed that whereas our more learned brethren are priests of an occult rite, the trial practitioners are more akin to professional athletes. Probably the court system in general would be improved if we recognized that fact, and treated trials accordingly.

The opposing teams (comprised of lawyers, clients and witnesses) could function more cohesively if supplied with uniforms and restricted to rigid time schedules. Nobody ever heard of a Super Bowl on a trailing calendar, and if such were the case it is doubtful that one could attract spectators. That's probably why most of our trials are played to empty courtrooms. Other innovations, such as sudden death and overtime, should also be imported directly into the trial process—thus eliminating the wasteful phenomenon of the hung jury.

Finally, even in this age of television replay, we do not change the final score once the game has been played, just because we happen to detect a referee's error. The public feels well served by this, and it has the additional advantage of finality. Those who risk wagers on the outcome of sporting events don't have to wait for two years to find out whether or not the score will stand, and the legal system could profit by the example. No slight is intended to the appellate system, but who wants to wager on Oakland or Philadelphia if we're not going to collect our bet for an average of between eighteen and thirty-six months?

## Cockatoo and Barbed Wire

Visualize your average P.I. case tried under pro rules. Plaintiff, a popular quadriplegic, scores an early lead with a moving account of his incapacity. His wife (who has a large claim for loss of consortium) converts, with a description of his total inability to function as a husband unless assisted by bizarre stimuli (she gets an extra point for her description of the cockatoo and the barbed wire). Good field position is obtained by the Plaintiff's team with horrifying medical testimony, followed by another score as the specials come in.

In the interim, Defendant's cross-examination special unit has been building up points, and the game is all tied up by a moving picture, surreptitiously taken by the Defendant's investigators, showing the Plaintiff winning a disco contest with a modernized ver-

sion of the tarantella. In overtime, Plaintiff scores the first point with a dramatic impeachment (winner of dance contest is shown to be a member of Screen Actors Guild, rather than the Plaintiff) and wins the game. As is the case in any professional sport, there is no second place—and the winner takes all. The bet, having been established by the litigants before the game started, is paid immediately, and there is no appeal.

## Monday Night Murder Trials

The same rules would apply to criminal cases, and needless to say there would be no jury intervention—any more than the crowd at a football game is invited to vote on the result. Justice would be swift and sure, the drama of the event would be enhanced to the point where trial law would again be the spectator sport it deserves to be—and we would get some color and excitement back into our courtrooms. Halftime activities, marching bands, and cheerleaders are certainly a possibility—as is "Monday Night Murder Trials." Some purists may object that these modifications will result in trials becoming a spectacle, with uncertain results depending almost entirely on the skill of the professional participants, as well as the breaks—but there is nothing new in that.

In response to some of the sterner comments directed to the Editor concerning my recent columns, it is unfair and unkind to suggest that I, as a simple observer of our system of justice, should be required to consider the extreme alternatives of banishment or ceremonial seppuku. However, to those correspondents who have wondered whether I find any drawbacks in dealing with a huge clientele composed mostly of wealthy murderers, rape fiends, drug addicts and assorted deviates, I must reply in the affirmative.

In all humility, it's not easy being a star. As Anchorage trial attorney, **Mike Flanigan**, has repeatedly complained, it's lonely at the top.

## Silent Sounds

There is a swallow singing somewhere  
—If swallows sing.

There is a quiet moon moving morning  
Toward hollow sound,

And a day filled with silent swallow  
songs  
—And with night.

—Les Miller

## RANDOM POTSHOTS

[continued from page 4]

for prosecutors. Defense counsel find it handy to knock the more affluent off a panel in a criminal case also. While the general practice has not come to Anchorage, in some jurisdictions, where large interests are at stake, counsel retain sociologists to assist in the jury selection process. A juror elimination process which is based on socio-economic criteria tends to corrupt the original purpose of juries, at least in criminal cases though the shoe might fit in the civil arena also.

## A Proposed Amendment

Well, what to do? If the constitutional trend works its way through, ultimately we will see the institution of the peremptory challenge disappear. This is as it is in several common law jurisdictions today and the bar lives with it.

To save the peremptory challenge the judge should be included in the decisional process. The rule and practice should be amended to provide that proposed peremptory challenges go first to the judge and that the judge be given the power to disallow a challenge "if the exercise of the challenge will substantially impair the representative character of the jury."

## Guidelines to Discretion

Agreed it is not going to make trial judges happy to dump the problem in their lap. There is the problem of finding guidelines for this discretion. But the judge is usually ahead of the lawyers in his ability to estimate the indi-

vidual bias of jurors and so can weigh in the balance of interests his own view of whether a juror is concealing an individually based bias. Likewise, the judge has a sense of the nature of his community and the parameters of representative character.

It may be that the information available to a judge about jurors needs to be improved to enable him to make judgments under the proposed rule. The judge, under an amended rule may take a more permissive attitude towards challenges for cause based on his own assessment of the likelihood of the juror's individual bias. There is the special statistical problem that on the original draw, juries vary along a continuum in their representativeness. It is not suggested that the rule change approaches perfection, only that it is better than the status quo and could head off the ultimate doom which it is otherwise argued will overtake the institution.

## Keeping Up With the Times

In the administration of justice we must recognize the impact of social technological knowledge on system operations. The changing utilization of jury selection is a consequence of such a technological soft ware innovation. Granted that attorneys have always considered socioeconomic factors in jury selection, improvements in technique have undermined some of the major policy considerations involved in the use of the jury system. It is a problem that is within the power of the court to address.

# Habeus Pistola

by P. Richard Metcalf

Reprinted from *Shooting Times*, November 1980.

Ever heard of "habeus pistola"? Well, it's a legal fact in Alaska, where justice and fair play still prevail. Who knows? It could set a legal precedent for gun owners everywhere.

Most people have heard of the right to *habeus corpus*. It is one of America's most cherished legal and constitutional freedoms. But have you ever heard of a writ of *habeus pistola*?

Literally translated, the Latin term *habeus corpus* means "you should have the body." In Anglo-American jurisprudence, the term refers to several types of common-law writs that can be issued to bring a party before a court or judge. The most familiar of such writs is *habeus corpus ad subjiciendum*, which requires proof of the lawfulness of the detention of a person taken into custody.

In common parlance, *habeus corpus* refers to the right of citizens to obtain these writs as a protection against illegal imprisonment. When the writ is issued, the accused must be physically produced in court and the question resolved. If no cause for detention is found, he is released.

This is great for human beings, but what about guns? Shouldn't they have the same protection against illegal

seizure and imprisonment as their owners? We have all heard of too many instances when law-enforcement agencies have confiscated and/or destroyed firearms without any apparent justification in law. Shouldn't guns have a right to *habeus pistola*?

Wayne Anthony Ross

Well, they do in Alaska. And Alaska, where the rough-and-ready spirit of frontier justice and fair play still survives, is probably the only place in the nation where such a thing could happen these days.

Back in the fall of 1976, an Alaskan who had encountered a bit of difficulty with the law retained attorney **Wayne A. Ross** of Anchorage as his defense counsel. Ross, who is president of the Alaska Gun Collectors Association and a current director of the NRA, explains the case:

"My client, whose name will remain unknown, purchased a Smith & Wesson Model 39 and sometime subsequent thereto happened to enter one of the local saloons for a bit of libation. Rather than leave his gun in the car as he should have, he chose to tuck it in his belt under his coat. While in the saloon, he was approached by four gentlemen looking for trouble. He dissuaded them from wreaking havoc upon his body by displaying his Smith & Wesson.

[continued on page 10]

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## Third Prize Winner The Green Whale

In College Hills they laid the house  
Upon a bed of ice  
They did not violate the earth  
By drilling with profane device.

A banker bought the stately manse  
And decked it out in brown.  
The water froze; the well went out.  
The banker turned his eyes toward  
town.

A lawyer needs a home this big  
To show the world his style.  
You must not house your family in  
Accommodations rank and vile.

Your home is quaint; those logs are nice.  
You have a pretty lawn.  
But don't you charge your clients lots  
Of money for the things you've drawn?

The lawyer moved his family to  
The house in College Hills.  
A client painted it light green,  
In payment for three codicils.

When Winter comes to Fairbanks it  
Is no surprise to those  
Who live here that the air grows chill  
And freezes water, earth and toes.

The well went out, the water froze.  
The walls began to crack.  
The house became a living thing—  
Perverse, malign, demonic.

It is not hard to learn to hate  
A pile of rock and wood  
Which does not do what it must do  
And does not work the way it should.

One cannot sue a house and win.  
To do so would be dumb.  
But one can sue the seller of  
The house and seek a healthy sum.

By now the house was breaking up  
And sinking in the swale.  
It looked as if an ocean had  
Swept by and left a beached green whale.

To be the lawyer on a case  
Is not so awfully hard.  
To be the client, it's more fun  
To hold your hands in boiling lard.

The banker won, the lawyer lost;  
He filed his appeal.  
Supreme they are, supreme they be,  
Four words wrote they in their decree:  
"The Judgment is Affirmed."

Oh that's a nasty way to end  
A romance with a whale.  
Could not the Court have talked a bit  
Before it pounded in the nail?

(Is permafrost too nondescript  
And dull a subject for  
A paragraph or two or three?  
A raven can croak, "Nevermore.")

The moral of this awful tale  
For those who've read this far  
Can be compressed into a line:  
Attorneys, do not cross the bar.

by Dave Call

## Szal Springs Calendaring Changes

[continued from page 1]

**Continuances**  
Continuances in civil cases will be decided by the judge to whom the case is assigned, with the understanding that he will not reset the case for a date and time which will conflict with another judge's calendar. If the assigned judge is on leave and the need for a continuance is due to an emergency, the presiding judge will hear the continuance.

Continuances in criminal matters prior to trial will be heard by the presiding judge.

**Criminal Cases**  
Criminal cases will be calendared by the presiding judge through the calendaring division. The presiding judge will continue to conduct arraignments and omnibus hearings in all criminal cases.

The length of trial day will be determined by the trial judge, however, no trial judge will begin or extend his trial day so as to interfere with another judge's trial day.

No matters can be removed from a judge's civil calendar without the judge's approval.

Criteria shall be established by the court for major case litigation.

Implementation of the calendaring plan regarding motions will be effective immediately. Trial and travel calendars will be implemented on January 1, 1981.

## Anchorage Bar Association Report

[continued from page 4]

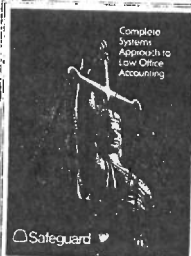
representatives contact the Association before changes are implemented. The trial bench has met these suggestions with enthusiasm.

A recent example of this spirit of cooperation was Mr. Al Szal's luncheon address to the Anchorage Bar Association on February 2nd in which he discussed the effects of orders relating to the transfer of cases among the three new Superior Court Judges.

In addition, some Board members will remain in closer contact with Supreme Court representatives. We will discuss concerns of both the trial bar and bench. Generally, trial lawyers and trial judges have more in common with each other than with administrators. By expressing these mutual concerns, we may encourage more flexible thinking within the administrative branches of the judiciary.

We're hoping to accomplish these tasks and still maintain a sense of humor. Perhaps by emulating some of the aggressive good humor of our friends in Fairbanks (who certainly need it given their circumstances), we will be able to give my disgruntled colleague some reason for hope.





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# Alaska Bar Association 1981 Budget

## EXPENSES

### ADMISSIONS

Staff (See Employee Expense Breakdown)	\$ 11,447.16
Grading:	
MBE	2,174.00
Local	9,600.00
California	4,500.00
NCBE Travel & Per Diem:	
Executive Director	
Chairman - Law Examiners Committee	1,250.00
Chairman - Exam/Adm. Review Committee	
Rent	3,800.00
Conflict Litigation	1,500.00
<b>BOARD OF GOVERNORS</b>	<b>\$ 34,272.16</b>

### Travel and Per Diem:

<b>BOG Meetings</b>	
Anchorage (Twice for 4 days each)	\$ 6,025.00
Juneau (4 days)	5,600.00
Fairbanks (3 days)	4,200.00
Anchorage (Twice for 3 days each)	5,675.00
Misc. Travel (Special or emergency meetings, taxi fare, car rental)	3,000.00
<b>Other Meetings</b>	
Western States	
Tucson, Arizona, Pres./Pres. Elect, Five Days	2,100.00
ABA Annual Meeting	
New Orleans, Louisiana, Pres./Pres. Elect, Nine Days	3,400.00
Mid Year ABA Meeting	
Houston, Texas, Pres./Pres. Elect, Nine Days	3,000.00
Bar Leadership - ABA	
Chicago, Illinois, President Elect, Four Days	980.00
Ninth Circuit	
Jackson Hole, Wyoming, President, Six Days	1,275.00
Telephone	4,500.00
Miscellaneous	750.00
	<b>\$ 40,505.00</b>

### DISCIPLINE

Staff (See Employee Expense Breakdown)	\$ 65,220.13
Travel (BOG Meetings and Investigator)	4,000.00
NABC Travel	1,500.00
Investigative Services	20,000.00
Conflict Litigation	3,600.00
	<b>\$ 94,320.13</b>

### LAWYER REFERRAL

Staff (See Employee Expense Breakdown)	\$ 8,170.74
Printing	675.00
Advertising	6,000.00
	<b>\$ 14,845.74</b>

### BAR RAG

Printing	\$ 16,200.00
Typesetting	10,800.00
Photography/Art Work	3,600.00
Distribution	2,400.00
Commissions	2,400.00
Promotion	500.00
Miscellaneous	100.00
	<b>\$ 36,000.00</b>

### ADMINISTRATION

Staff (See Employee Expense Breakdown)	\$ 85,053.85
Telephone	7,500.00
Travel:	
Exec. Dir.	
BOG Meetings	1,400.00
Annual ABA	1,750.00
Mid Winter ABA	1,500.00
Staff	
Juneau/Annual Meeting (Two People)	1,300.00
Public Relations	3,000.00
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Equip. Repair and Maintenance	4,000.00
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	<b>\$198,753.85</b>

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ANNUAL MEETING	10,000.00
SPECIAL LITIGATION	10,000.00

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ER Exp.		2,450.61
Insurance		3,717.48
		<b>\$ 46,168.09</b>
Secretary	(Discipline)	\$ 16,800.00
ER Exp.		1,520.64
Insurance		731.40
		<b>\$ 19,052.04</b>
Executive Director	(Administration)	\$ 40,000.00
ER Exp.		2,450.61
Insurance		731.40
		<b>\$ 43,182.01</b>
Executive Assistant	(50% Admissions)	\$ 20,400.00
ER Exp.	(50% Administration)	1,762.92
Insurance		731.40
		<b>\$ 22,894.32</b>
Receptionist	(50% Lawyer Referral)	\$ 14,400.00
ER Exp.	(50% Administration)	1,359.12
Insurance		731.40
		<b>\$ 16,341.48</b>
Bookkeeper	(Administration)	\$ 19,800.00
ER Exp.		1,722.54
Insurance		731.40
		<b>\$ 22,253.94</b>
<b>TOTAL</b>		<b>\$169,891.88</b>
10% Increase (Six Months)		8,890.00
ER Exp. Increase		273.00
		<b>9,163.00</b>
<b>GRAND TOTAL EMPLOYEE EXPENSE</b>		<b>\$179,054.88</b>

## INCOME

MEMBERSHIP DUES	\$442,800.00
ADMISSIONS	45,600.00
ADDRESSING & COPYING	1,200.00
INTEREST	20,000.00
LAWYER REFERRAL	8,500.00
BAR RAG	20,000.00
ANNUAL MEETING	10,000.00
ANCHORAGE BAR	3,000.00
PENALTIES	4,500.00
MISCELLANEOUS	1,000.00
<b>TOTAL 1980 INCOME</b>	<b>\$556,600.00</b>

## 1981 BUDGET SUMMARY SHEET

TOTAL INCOME	\$556,600.00
TOTAL EXPENSES	479,859.88
<b>EXCESS: INCOME OVER EXPENSES</b>	<b>\$76,740.12*</b>

\* All Continuing Legal Education figures will be in a separate budget. The above amount does not reflect any of the CLE figures, as it is anticipated that income and expenses will balance out, except that the Association is purchasing video tape equipment in 1981 which will reflect as an asset and not an expense.

The above "excess" figure does not reflect the effect of the anticipated 1980 deficit.

All excess monies received in 1981 will be invested to defray increased costs and effects of inflation in 1982 and 1983. It was understood, when the membership approved the dues increase, that the Board would not come back to the membership for another dues increase through at least 1983.

### Anchorage Association of Women Lawyers Minutes of Regular Meeting January 7, 1981

The AAWL assembled itself on January 7, 1981 at noon at the Tea Leaf Restaurant, Anchorage, Alaska under direction of the President Lari Spengler.

1. Christmas Party: Lari reported on the most successful Christmas party and the very favorable comments on it.

2. The National Association of Women's Attorneys will be meeting at the Holiday Inn on February 6th, 7th, and 8th in Anchorage, Alaska (hope this is an accurate report).

3. Notice:—Notice as required by the bylaws, this is official notice of a change in the bylaws as it relates to the signing of checks on the AAWL bank account. It is proposed by the officers that checks be signed by only one person rather than requiring a counter signature because of the administrative difficulties occurring repeatedly. This change will be voted on at the next meeting, February 4, 1981, or at the next regular meeting following that (March 4) if approval is not accomplished at the February meeting.

4. Unwarranted criticism letter—the unwarranted criticism of Justice Matthews was subject of a response by *Anchorage Times* Publisher Robert Atwood. The group decided not to answer the letter.

5. Public Defender Opening: *Will there be an endorsement of an individual for the Public Defender's job?* Several women lawyers are running. This prompted a motion to establish a committee for criteria for endorsement of individuals as follows: Peggy Rawitz, Chairperson, Mary Foley, Karen Hunt, Russlyn Carruth, Mary Hughes.

6. Legislative (Skeptics?) Committee: Julie Simon was designated as Chairperson of the Legislative Monitoring Committee. J.E. Fisher will be on the committee.

7. The Alaska Feminist Credit Union (AAWL are authorized participants) will hold its annual meeting March 14, 1981.

8. The business and professional women are involved in a program for young career women age 21 through 30.

After discussion on advocacy methods to familiarize the general public about women candidates for office the meeting adjourned.

Susan Vaillancourt by J.E.F.  
Recording Secretary

Next Meeting: Rene Gonzales, U.S. District Attorney, speaking on federal practice. This program definitely confirmed for Wednesday, February 4, 1981 meeting, Tea Leaf at 12.

### Someone Stole My Pup

When Blackie, Our big Lab,  
Met me at the car door  
With a tear in his eye  
At the age of ten  
(Seventy man years)  
I knew then  
That I wouldn't see him  
On my return

I was off to a distant place  
For some inconsequential reason  
Involving humans and their follies

When I returned, he was gone.  
I didn't even look for him  
He had the dignity  
To crawl away and die  
On the hill above the house  
That overlooks the ocean  
And his beloved duck flats  
Ones we'd haunted  
So many times together

A month went by  
And a friend  
Brought a black, wiggly  
Seven week old butterball  
Of a magician  
Three-quarters Lab,  
One quarter Ridgeback  
To placate the eight year old

We named him Hunter,  
Hunter Reasor -  
And he was and is  
The second brightest dog I know  
But, someone stole my Pup

He'd learned to stay, heel  
Come on command  
Eat only when permitted  
And not to chew my new slippers

When the neighbor's Saint Bernard  
Ventured into the yard  
He charged - silly Pup  
But now the eight year old's  
And mine - a family Pup

Once again I had left  
For a far away place  
To solve a riddle  
Two people could have  
Solved themselves  
Had they but tried

And while I was gone  
A car stopped  
The passenger man got out  
Grabbed the Hunter  
Threw him in the back seat  
And then the driver sped off:  
Someone stole my Pup

Had I been there  
I would have shot  
Both of them  
Not to kill so much  
As to sting the meanness  
Out of a Man  
Who could deliberately steal  
Part of another man's family

I know, I know  
That's not the law  
No risk of human life  
Is worth mere loss of property  
But, had I been there  
No one would have stole my Pup.  
—Edward J. Reasor

### Nostalgia For A New Pair of Shoes

They did not have 11 B in brown  
suede but in saddle oxfords yes  
unless of course frivolity won out  
for patent leather.  
All those boxes neatly on the shelf  
and X-rays of the neat bones in my foot.  
A sense of order there behind the  
curtain  
where customers were barred  
and shoes were ranged in colored  
rows by size  
as if all life were easily reduced  
to half size measures on the sliding rule.  
They sat on slanted stools and served.  
I placed my comfort in their knowing  
fingers.  
But maybe since my left foot grew too  
fast  
life never came as neat as shoes in boxes  
—Diana Conway

### The Sign

Early morning sun  
shines the snail's meanderings  
Here she ventured from familiar grass  
to alien concrete  
I track her to the curb  
joyful not to find her crushed below  
imagine her a hero in wild worlds  
She silvered me the sidewalk  
brave optimist I thank her  
—Diana Conway

### Fall Alone

Fragments of my longing for you  
start into my throat  
like birds scattering before the wind  
Gold leaves have fallen in your  
footsteps  
I am as dry as old grass  
Walking our mossy walks  
I hold the warm arms of my parka  
close, remembering  
and feel the first snowflake  
a cold tear on my cheek  
—Diana Conway

### To Nora, (or, Why I Won't Be In, In the Morning)

This ten minutes past midnight  
And all through this edificio  
Not a creature is stirring,  
Not even one little mouseo.

The corridors are darkened,  
The heat's been turned off;  
My fingers are freezing,  
I've developed a cough.

The files all are placed  
With most infinite care  
On top of your desk  
To do with what you dare.

Please send all the civils  
To clerks Connie, or Pete—  
The notes they put in 'em  
I've answered—completeo.

I've studied and signed 'em  
Till energy's in absentia  
Though the contents of some  
It'll make no diferencia.

Some are you for you,  
For your eyes a solo  
Though why you should want 'em  
I'm sure that I don't know.

I'll toil and I'll sweat  
If you'll just stop your naggin'—  
We'll process all cases  
—My feet I'll cease draggin.

Tell Miss Turner I did it  
Despite all the bets  
That I'd never get current  
Or clean up my desk.

You might also tell her  
I'm sicksicksick (of this ode)—  
*De cabeza, tengo frio—*  
Got a code in da node!!!  
—J.J. Brewer

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## More Letters

[continued from page 4]

Dear Editor:

I just wanted you to know that I believe that the last issue of the *Bar Rag* was the best ever. You people contribute both professionally in providing an awareness to persons in the legal community as to what's going on and a sense of tradition, camaraderie and good feeling that has been lacking in the bar since we have gotten so big that all of us don't know each other. I congratulate you.

Best regards,  
Larry R. Weeks  
District Attorney

Dear Editor:

A recent request from the United States Congress to the Federal Courts requires that the United States District Courts collect data on the residence of plaintiffs in civil cases filed. To collect this information, a new civil cover sheet JS-44 has been printed and parties filing suits in Federal Court must provide a five-digit code as follows: For all civil cases except U.S. Plaintiff Cases, a code for the residence of the first listed plaintiff. In U.S. Plaintiff Cases, the code for the residence for the first listed defendant.

While most U.S. District Courts are broken down by a county designation, Alaska's designations are by census divisions. A complete list of codes will be available at the Office of the Clerk for use by filing parties in completing the required civil docket sheets.

Yours very truly,  
JoAnn Myres, Clerk

## September Song

Outside the rain dampened other heads,  
chilled other hearts  
while I lay in my bed  
frightened by a virus  
that left me small and weak,  
my body dampened  
by fever and chills.

I turned my head and caught  
the school day light  
skimming through the elm,  
the raindrops working fractions  
on my window  
while I lay aching,  
small and weak.

Kitchen sounds from downstairs:  
running water, dishes rattling  
muffled through the floor  
verifying your presence.

I relaxed then, knowing  
you would soon appear  
bearing fruit juice and soup:  
soft kitchen sounds  
that soothed my fear to sleep.

Mother, it's raining;  
the elm has gone  
from my view,  
the house weathered  
into history.

The kitchen sounds  
have echoed away  
and I tremble  
at the hollow silence.

Mother, be there with my juice  
and soothe my fear to sleep.

—Susan Hallock

## Art Uncreated

A frozen drop of inspiration  
fragile and glisteningly pure  
glides slowly and silently  
across the vast white desert  
of the child's mind  
charted on a course for the soul  
then hurtles headlong  
into an obdurate wall of forbiddance  
from long ago far away  
shatters

its fragments careening tumbling  
vanish forever  
buried beneath the sand.

—Susan Hallock

## The Gift

This hand  
work old weather browned  
stiffened by scars  
shaped by fish and fist  
This man's hand  
lingers by a Sitka rosebush  
Fingers sink down in pink fragility  
come up rich with pollen  
and tiny petals  
This hand so huge it spans my chest  
gently cradles love

—Diana Conway

# Thanks to You We Almost Did It!

by Randall Burns

After having lost \$21,120 in 1978 and \$39,309 in 1979, the Alaska Bar Association will only end up some \$7,500 in the red for 1980. This result is primarily due to the membership contributing an additional \$20 apiece in 1980 to help defray what at one time appeared to be the onslaught of a financial debacle of the worst order.

When you consider, however, that during 1980 the Bar Association did not receive some \$34,500 in budgeted funds from the Court (because of the Legislature's (read: Senator Sackett's) refusal to provide funding to the Association) and that the special \$20 dues assessment brought in only some \$22,500, the pettiness of the loss is particularly rewarding.

In addition to the income from the special assessment, the Association also made some \$17,300 in interest income during 1980, again helping to keep the loss to a minimum. Further unanticipated income: \$7,000 from the Alaska Court System to help keep the *UCLA/Alaska Law Review* going and a definite increase in the income generated by the *Bar Rag* (some \$13,000 in advertising income was received in 1980).

### Moral Bankruptcy

The staff of the Bar Association takes pride in their efforts, as well, to hold down costs and attempt to break even. Although not totally successful in reaching its goal of ending 1980 in the black, the Board of Governors and Association staff wishes to particularly thank the membership for support of their efforts to make the Association financially stable. We are now focusing on our moral bankruptcy and feel confident reform and improvement are in the offing.

The Profit and Loss Statement at year-end, as prepared by the Association's bookkeeper, is printed below. These figures are unaudited amounts, and could be amended up or down. The auditors are at work even as this article goes to print, and exact figures should be available later this month. (Please note that while the Net Loss on the statement below indicates only a \$4,500 loss for 1980, I stated a \$7,500

loss at the beginning of this article because of items which have come to light during the audit process since this statement was completed in mid-January.)

### ALASKA BAR ASSOCIATION PROFIT AND LOSS STATEMENT FOR PERIOD ENDING December 31, 1980

INCOME	Ending 12 Months
Membership Dues	\$257,525.15
Admission Fees	44,306.00
C.L.E.	12,261.40
Mid Winter Conv.	5,890.80
Addressing & Copying	1,410.06
Ins. Fee	10.00
Interest	17,448.41
Lawyer Referral	8,615.00
Bar Rag	13,201.93
Annual Conv.	22,093.90
Anchorage Bar	1,500.00
Court System	31,100.00
Misc.	7,991.01
Penalties	4,333.97
N.I.T.A.	48,853.18
<b>TOTAL INCOME</b>	<b>\$476,540.81</b>

### EXPENSES

Admissions	\$ 31,529.28
B.O.G.	33,412.03
Discipline	114,392.12
Administration	163,744.98
Lawyer Referral	16,824.48
C.L.E.	9,707.47
Lobby	6,456.76
Committees	1,703.83
Bar Rag	23,422.14
U.C.L.A./Ak. Law Review	8,494.36
Amer. Bar Assoc.	4,597.77
Western States	2,520.32
Annual Conv.	16,502.45
Mid Winter Conv.	1,141.78
Special Litigation	4,482.71
N.I.T.A.	42,136.35
<b>TOTAL EXPENSES</b>	<b>\$481,106.83</b>
<b>NET PROFIT OR (LOSS)</b>	<b>(\$4,566.02)</b>

## Supreme Court to Hold Session in Barrow

The Alaska Supreme Court will travel to Barrow in March to hear oral argument in the pending appeals concerning the state portion of the Beaufort Sea oil and gas lease sale held in December 1979.

The argument will be held on Wednesday morning, March 25, 1981.

This will be the Supreme Court's first session in Barrow. The court regularly holds argument in Anchorage, Fairbanks and Juneau, and in the past has also held sessions in Kenai, Ketchikan and Kodiak.

Superior Court Judge Jay Hodges travelled to Barrow in May 1980 for oral argument in this case. Portions of his decision have been appealed by all parties: the North Slope Borough and its officials, several villages on the North Slope, the State of Alaska, and some of the oil companies which obtained offshore leases at the December 1979 sale.

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# Habeus Pistola

[continued from page 5]

"Subsequent thereto, he was charged with assault with a deadly weapon; however, when the facts came to light, the charges were reduced to carrying a concealed weapon and possession of a firearm while intoxicated. The State could not prove that he was intoxicated at the time and therefore agreed to defer the prosecution on that charge.

### Creative Legal Reasoning

"We agreed to plead no contest to a carrying concealed weapon charge. Ultimately, I was able to obtain a suspended imposition of sentence, but the judge conditioned the suspension upon the defendant paying \$100 for costs and forfeiting the gun to the State."

At this point, attorney Ross took exception. The gun had already been assigned to him by the defendant as part payment for his legal services. Moreover, there was no provision in the relevant statutes authorizing confiscation of the firearm for the misdemeanor committed by the defendant. Ross moved that the gun be released to him. The judge, Laurel Peterson, authorized Ross to submit a written memorandum in support of his motion.

The memorandum and argument, which Ross submitted to Judge Peterson on April 20, 1977, was a minor masterpiece of creative legal reasoning.

Ross began by identifying himself as an attorney acting "on behalf of one Smith & Wesson Model 39-2, 9mm semi-automatic pistol," in effect stating that he was acting as lawyer for the gun. And because his claim was that the pistol was being improperly detained, he titled the memorandum as support for a motion for issuance of a writ of *habeus pistola*.

The legal argument Ross had prepared rested on several grounds. First, he pointed out that the value of the gun was at least \$150 (Ross is a Superior Court Qualified Firearms Expert) and that when this amount was added to the \$100 costs imposed on the defendant, the total exceeded by \$50 the maximum fine allowed by law for the offense.

He also observed that because of the payment contract he had with the defendant, the gun belonged to him—not the defendant. This being the case, it was hardly fair for the court to "forfeit defendant's attorney's property because of the conduct of the defendant himself."

### Due Process

On more technical legal grounds, Ross appealed to the constitutional Fifth Amendment protection against deprivation of property without due process. "Due process," he reasoned, "contemplates and requires notice to a defendant before his property may be seized. In the instant case, the State did not seek forfeiture of the weapon, nor do the penalties provided for in the statute applicable to this offense provide for any judicial forfeiture. Therefore, no notice was given to the defendant that someone would seek to forfeit the weapon involved until the court 'sprung' this idea upon the defendant and his attorney."

This, Ross reasoned, would constitute violation of due process regardless of whether the gun actually belonged to the defendant or his attorney.

All the preceding are sound, legal arguments, but the crux of Ross's memorandum was a lengthy defense of the actual firearm and its right to freedom. He provided the court with a detailed history of the Smith & Wesson family of 9mm pistols, arguing for the value of the particular gun in question to anyone who would specialize in their collection.

### S&W Model 39

He did not attempt to ascribe any special or unique character to the individual gun but instead emphasized that simply because the Model 39 is a recog-

nized high-quality firearm with an abundance of legitimate usages, it should not be "imprisoned." And in support of that contention, he provided the court with lengthy excerpts from the works of firearms authorities like Geoffrey Boothroyd, DeWitt Sell, and Robert Mandel, all praising the design and utility of the S&W Model 39.

In Ross's words, "The weapon itself deserves better treatment than forfeiture to the State. It is a well-made piece of machinery which should be placed in the hands of someone who appreciates it. Defendant's attorney, the undersigned, as a devoted firearms enthusiast, gun collector, and Superior Court Qualified Firearms Expert, is such a person."

"The law abhors a forfeiture," Ross concluded. "So do I."

It should be noted at this point that while Wayne Ross was deadly serious in his arguments in favor of the gun's release, he must have had his tongue at least partly in cheek when he couched his memorandum in the form of a plea for *habeus corpus*. And he probably did not expect the court to respond in the manner it did.

### Peterson's Order

On May 10, 1977, for what must be the first time in American legal history, Judge Peterson overruled his earlier order and issued an official writ of *habeus pistola*, releasing the S&W Model 39 from custody. The text of the order is worth quoting:

"In the above entitled matter, one Smith & Wesson Model 39-2, 9 mm semi-automatic pistol, Serial A238467, has sought release from the terminal order of this court issued on April 14, 1977. After review of the repertoire of persuasive arguments made by the weapon this court has been convinced that its earlier order would indeed result in an injustice to all parties involved, bordering on cruel and unusual punishment.

"Therefore, it is hereby ordered that the weapon mentioned above be released..."

Judge Peterson deserves to be commended for both a good sense of justice and a good sense of humor. Wayne Ross deserved to be commended for his good legal argument and willingness to fight for firearms liberation. The S&W Model 39-2 deserves to be commended for standing up for its rights.

Literally translated, the term *habeus pistola* means "you should have the pistol." It is comforting to know that in at least one state in the Union this sentiment has been acted into law.

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### Vae Victus

"No defeat is made up entirely of defeat—since the world it opens is always a place formerly unsuspected."

—Wilfred Scawren Blunt

Yes, the taste in the mouth is bitter—  
But it is new;  
Tears in your eyes may glitter,  
But change your view.

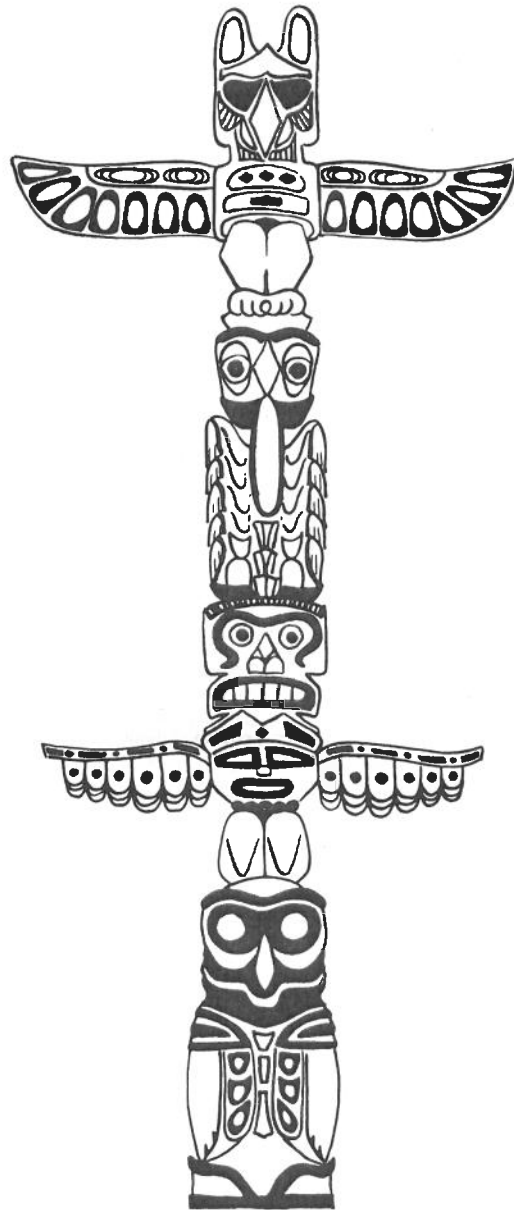
That crag seems far too steep—  
Stay safely here;  
The river there swirls long and deep—  
Beware, too near.

The unsuspected world beyond  
May bring what fate?  
Splendor, squalor, hate, love's bond?  
Stay—best be late.

Only those who run can lose the race,  
And view that world;  
Walk slowly then—avoid the pace,  
Umbrella neatly furled.

by Wendall P. Kay

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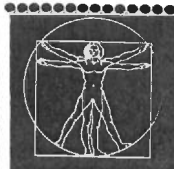
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# TVBA Minutes

## December 12, 1980 Meeting

What began as one of the most boring meetings ever was called to order by Vice President **Bob Groseclose** somewhere near 12:30. Guests introduced were **Judge Williams**, **Sue Thomas** (about to be a new admittee), **Elaine Bulley**, who last appeared in Halloween costume, and retired **Judge Laurel Peterson** of Anchorage. Considerable cynicism was expressed at the secretary's account of the last meeting; **Dennis Bump** suggested that we point out that the Alaska Bar Association has a budget in excess of \$600,000 per annum, and **Dick Savell** dropped a clod in the churn with the observation that the members are all assessed the \$310 but that doesn't mean that they pay \$310 each year. There were announcements of the 4:00 p.m. party at the offices of **Whiting and Rosie** and the Saturday courthouse Christmas party. **V.P. Groseclose** was unable to get any of the standing, sitting, or eating committees to speak to him on any subject, and the meeting was a complete bust. At this point, **Young Locinvarr Connelly** rode from out of the West and suggested that **R.D. Savell** report on the sunset of the Bar Association and other kindred matters. **Savell**, who observed he did not want to be too precise for fear of not being right, began to try to explain his philosophy. Unfortunately, it was somewhat meager, but while he discussed confidentiality of State Bar records, **Tom Fenton** moved that the TVBA buy the State Bar a shredder. This was de facto out of order, because the State Bar already has a shredder; they just don't use it much. As **Savell's** philosophy was being debated, **Dave Call** moved that we resolve to abolish **Alaska Legal Services Corporation**. This seems to have been seconded by Vice President **Groseclose**; though when anyone seconded any motions at this meeting was certainly not established beyond a reasonable doubt. This motion would have passed unanimously, except that **Paul Canarsky** objected. **Will Schendel** moved, with **Judge Blair** seconding, that we cite as a reason aberrant sexual behavior. **Andy Kleinfeld** thought it would be a nice idea if we made it aberrant \_\_\_\_\_ behavior. There were suggestions about deleting every other letter in the word "sexual," and the meeting finally got warmed up. **Dick Savell** having mentioned that a prominent legislator indicated to **Art Snowden** that if the Supreme Court supported the Bar by giving it money from the legislature, he would lose his legs or at least have them broken at the knees. **Judge Blair** indicated that that would make **Snowden** the equivalent of **Dick Savell**. Since there had been a bit of deviation, **Dave Call** wanted to withdraw his motion. **Barry Jackson** started out to move to "insert" the motion, and the cheering was such that his motion became incontinent. **Blair** moved that **Barry Jackson** be permitted to "withdraw that which he had inserted." By this time **Barry** appeared quite red in the face, and his breathing was labored, but he insisted on making known his position.

A sufficiently good time was being had by all, but **Barry Donnellan** suggested we give **Barry Jackson** 15 minutes to discuss his position. **Judge Blair** moved that we lay whatever it was that we were doing on the table. The vote was unanimous. **Judge Crutchfield** was caught trying to get someone else to make a movement. **Dick Savell** accused him of not being a real one, and the meeting went in recess until 4:00 p.m. when it reconvened at the offices of **Whiting and Rosie**. Many things happened there, but some of them involved your secretary, and hence no minutes were taken.

By executive fiat,

King Arthur

## December 19, 1980 Meeting

The meeting was called to order by **Art Robson** by virtue of some sort of divine right. He announced that he had no minutes as his car had broken down, and he hadn't gotten to his office. No one was a guest or at least not enough of a guest to have their meal paid for by anyone else.

There were no committee reports. Under announcements, **Barry Jackson** announced his birthday party at his home on January 27, at 7:00 p.m. Refreshments will be there, but it would be nice if you brought some—dancing to live music in his garage. He also announced that **Dr. Samineaux**, who has written a book called *The Criminal Personality*, and runs a sort of AA to cure criminals, will be here on February 26, and we will probably have him speak to us on February 27. He is coming to testify with reference to one of **Barry's** clients, and **Judge Hodges** wants to know if that means that the client is acknowledged as a serious criminal. **Niesje Steinkruger** felt that the lecture should be popular since it deals with serious criminals and/or curing them, and members of the Bar need to see the light.

It was moved by **Judge Blair**, seconded by **Dick Burke**, that we have no meeting for the next two weeks. **Barry Jackson** tried to get anyone else to indicate they're interested in a meeting. When this failed, the motion passed. **Dick Savell** asked for a party report, because he had nowhere to go Friday evening. He was told that he'd already missed **Rice Hoppners'** private party. **Dick Madson** got things started by moving that we not only abolish **Alaska Legal Services** but also abolish the Attorney General's office. **Barry Jackson** moved that we abolish the whole Attorney General. Various and sundry other voices chimed in recommending that we abolish the public defender's office, the district attorney's office, and the court system. Due to the danger of putting us all out of work, **Larry Wood** moved to table, with **Chris Zimmerman** seconding, and the motion passing ten to six. **Brent Wood** moved and **Chris Zimmerman** seconded that **Clem Stephenson** be designated the promising young attorney who is to draw up the articles of incorporation for the TVBA. On the call for a division of the question, the vote was ten to two against **Clem Stephenson** being promising but five to three in favor of his being young. On this note, **Dick Burke** wished everyone merry Christmas and left. **Terry Thorgaard** made a motion which **Barry Jackson** seconded and then aborted to substitute **Logan and Coons** as the attorneys to be young, promising and draft up the Bar Association Articles.

**King-for-a-day Robson** announced that he was tired of all this jazz; that the Bar had received its first package, but the Post Office had lost it. He tried to assign the case on a contingent fee to some member of the Bar. Everyone refused, and amid comments that this was the most boring meeting we have ever had, the meeting broke up.

King Arthur

## January 9, 1981 Meeting

The meeting was called to order by President **Jon Link** who blew his nose loudly to attract attention. As far as guests were concerned, **Dick Savell** introduced a female person. However, whenever he talks a ground swell of mumbling seems to arise, and prevented the secretary from obtaining the girl's name. **Grant Pankhurst** introduced **John Prouse** who is an Oklahoma attorney working for Northwest on right-of-way.

Following the reading of the minutes, **Dave Call** moved that the minutes be shredded because they bordered on indecency. Ultimately, he made a substitute motion that we not distribute the minutes of the December 19th meeting, and President **Link** gave

them to **Dick Savell** to edit so as to remove the obscenities but leave enough to pique the interest.

While **Jim DeWitt** was complaining that he needed paper on which to send out dues billings, **Judge Blair** moved that we appropriate 25 cents to **Jim DeWitt** for the purchase of a Red Chief tablet. This caused **DeWitt** to make a brilliant motion about stationery necessary to our image. President **Link** decided that was within **DeWitt's** discretionary authority, since money seemed to be going through the treasury like toilet paper in a public restroom.

**Jon Link** announced that there were 19 people who hadn't paid the \$20 special assessment and that when they sent in their \$310 for their 1981 dues the first \$20 would be applied to the special assessment and they would then be told that they hadn't paid their dues. There were some comments in this regard, but if we're going to try to keep our minutes clean, the comments can't be quoted. **Hon. Jonathan** also noted that **Justice Bacon** had determined that the Supreme Court would pay two-thirds of an attorney fee and the State Bar one-third of an attorney's fee for upholding the Supreme Court's order. There were cries of "to arms" and "to the barricades," but most of the yelling was in French and, amid singing of *La Marseillaise* the meeting proceeded. Part of the hullabaloo related to a rip-snorting remark made by **Barry Donnellan**, but things were moving too fast to catch it. There was overwhelming applause when President **Link** announced that he was not going to run for the Bar's Board of Governors again and tried to solicit a volunteer. **Dick Savell** tried to get on that band wagon, but apparently no one will applaud him for anything. **Ralph Beistline**, as stand-in for the chairman of the Fourth of July picnic, announced that the chairman had gone to the Fox Roadhouse to investigate its worthiness and had not returned yet. It is therefore presumed that for something between \$12 and \$15 the Bar Association's Fourth of July picnic will be held on Friday the 13th of February, 1981, at the Fox Roadhouse.

**Paul Barrett**, somewhat less than coyly, suggested that we request that the Supreme Court, when sending out rules changes, put one to each sheet so that they can be placed in the booklet. President **Link** tried to explain why this happened and decided he would convey the message to the Supreme Court himself.

**R.D. Savell** announced that an act of God had made holes in a new wash tub which he had been storing for the TVBA for use at our summer Christmas parties. He was accused of raising chickens in the wash tub and of depositing all, or a portion of, the wash tub or its contents on **Niesje Steinkruger's** desk. Things were going badly enough that **Judge Blair** strolled to the podium to have his fortune, fresh from the cookie, read to the crowd. It indicated: "you display the wonderful traits of charm and courtesy." As the crowd began singing *La Marseillaise* again, someone shouted that the fortune should be marked "return to sender—misaddressed." Someone else announced that the meeting was ending early because **Judge Hugh Connelly** had decided to work through lunch instead of appearing at the meeting, and several unnamed citizens announced that their bookie had, in fact, disappeared as reported in the *Insider* in the *Fairbanks Daily News Miner*, but that the remaining bookie in town was giving the Oakland Raiders a four-point edge for the coming weekend. The meeting was adjourned sine day.

King Arthur

## January 16, 1981 Meeting

The meeting was called to order at 12:20 by President **Jon Link**. **Ken Wallack** of Anchorage was introduced as a guest and **Dick Savell** introduced **Fleur Roberts**, a plaintiff's personal injury attorney from New York, who is looking for a position, but not in the

sense that the word "position" is used in our minutes. An immediate struggle ensued with **Dick Madson** speaking the loudest that he fired her effective noon finishing his second martini. **Dave Call** moved that the scatological minutes be approved, and that sort of seemed like a good idea to everyone. **Barry Jackson** announced that **Dr. Samineaux** still plans to be present on the February 27th meeting, and he will be pleased to speak to the Bar at no charge, and he is the world's leading criminal expert. **Barry** also announced his birthday party on January 22nd again. It was moved, seconded and unanimously passed that we invite **Dr. Samineaux**.

**Mike Lessmeier**, chairman of the 4th of July picnic party, reported that he is finally back from Fox and definitely on Friday the 13th of February we would have the party at the Fox roadhouse. We would have a choice of three entrees. They were: (1) New York cut steak, (2) shrimp or prawns, (3) halibut, (4) prime rib. At 7:00 p.m. the no-host bar will start, and all drinks will be only \$1.50 each. He indicated that a \$350.00 deposit would save a bunch of trouble and he would like people to sign up, so he would know who was going to be there. He moved, and **Niesje Steinkruger** seconded, that we appropriate the \$350.00 from our treasury, and the treasurer not being present, the motion passed unanimously. **Ralph Beistline** was announced as the head of the program, and there was some question about wearing costumes. **Judge Blair** moved that **Randy Olsen** and **Judge Connelly** be appointed as the entertainment committee. A loud voice in the back indicated that they would bill themselves as the "bored stiffs." As we moved into the question of entertainment and who we could hire for what price, **Judge Van Hoomissen** offered to "play" for \$100.00. It was moved by **Bob Groseclose** and seconded by **Judge Blair** that we hire **Jim Bell** and his brother, **John**, if we could get away with paying them only \$150.00. **Judge Blair** then decided to move to make it \$185.00. **Barry Jackson** seconded same, and this passed unanimously. In fact, the meeting was so spiritless everything passed unanimously. The program consisted of **Ken Wallack** of Anchorage, who gave a talk on the details of the proposed continuing legal education trip to China, including the cost; \$3,990.00 unless **JAL** increases the price, all inclusive covering **Shang Hai**, **Nam-King**, **Pei-Ping**, etc., and about five days in Hong Kong. **Ken** then showed slides of his prior trip, which occurred more or less at the same time as **Judge Blair's** trip. He mentioned sanitary facilities consisting of two bricks and a hole. This caused an outburst by **Judge Van Hoomissen** who wanted to know what the bricks were for. As panicked attorneys streaked out following the sadistic judges, the hard core hung in until the end, and it looks like a number of TVBA members will be attending.

By executive fiat,

King Arthur

## January 23, 1981 Meeting

Due to a paucity of legitimately elected talent, the meeting was called to order at 12:30 by **King Arthur**, and it ran pursuant to **Robson's** Rules of Order. No guests were present.

The minutes fell on deaf ears; however, as a result of prior minutes, **Robson** was presented with an official *Bar Rag* T-shirt by **Dick Savell**; **Savell** having used it as a napkin during the eating part of the meeting. For announcements, **Ralph Beistline** announced that he wanted to have door prizes at the Fourth of July picnic, that there would be guess-the-number-of-jelly-beans contests, etc. He also had hoped for the installation of the 1981 officers of the TVBA at said meeting. Moved by **Dick Savell**, seconded by **Dick Madson**, that a fifth office of the TVBA be created to be denominated "sergeant-at-arms and religious coordinator" and that the appointee for that

[continued on page 14]

# Regulating Regulations in California

by Donn T. Wonnell

The sign posted outside the law school classroom, as I recall it, exhorted readers to enlighten themselves by attendance at some public interest forum, and ended with the observation "If you're not part of the solution, you're part of the problem." (Having examinations the following week, I defaulted and remained part of the problem, whatever it was). The "either/or" dichotomy proffered in the sign, however, seems appropriate to the recent undertakings by the California legislature in the field of administrative law.

Afflicted by public pressures not unlike those felt by the Alaska Legislature in recent years, the legislature of California cast about for some means of controlling, and thereby of stemming, the rising tide of administrative regulations engulfing the state. The solution, enacted into the California Government Code beginning at Section 11340 and operative July 1, 1980, was to create an "Office of Administrative Law" ("OAL"), an administrative agency whose purpose, distilled, was and is to review, and then to approve or disapprove regulations proposed by other state administrative agencies prior to their implementation. An agency, in other words, regulating the regulations of other agencies.

In terms of intended effects, the legislation was clearly aimed at the solution side of the equation. The OAL is an agency whose head is appointed by the Governor for a term equal to the latter's. Its purpose in terms of stated legislative intent, is "to reduce the number of administrative regulations

and to improve the quality of those regulations which are adopted." To accomplish this, the agency has the power and the duty to review all new administrative regulations created by state agencies, according to six basic standards articulated in the statute as follows:

- (1) **Necessity** — the statute defines necessity as the need for an administrative regulation as demonstrated in the rule making record;
- (2) **Authority** — according to the law, this requires the OAL to review the proposed regulations to determine whether the proponent agency is required or permitted to adopt or amend such a regulation under any other applicable law;
- (3) **Clarity** — the OAL must pass on whether new regulations are written or displayed in such a manner as to permit those who must comply with the regulations to understand them;
- (4) **Consistency** — consistency is defined by the statute as being in harmony with and not contradictory to existing laws;
- (5) **Reference** — the OAL must insure that any new regulation specifies which court decision or statute that regulation intends to clarify or implement;
- (6) **Approval of the State Building Standards Commission** (a matter of more apparent interest to practice in California).

In applying these standards, the OAL apparently has authority to employ on its staff experts ("professional assistants") with skills appropriate to the review of highly technical regulations. Review must be completed within thirty days of submission; if not, the regulation is deemed approved. If disapproved by OAL, that agency must specify in writing the reasons for disapproval, which must be tied to one of the six standards enumerated above. Upon such disapproval, the proponent agency may take one of four alternative courses of actions. It may decline to proceed with the regulation in any

form; it may rewrite and resubmit the regulation without substantive change; it may rewrite and resubmit the regulation with substantive changes, providing it has gone through any rule-making procedures required to make the new substantive determinations; or it may appeal the OAL rejection to the Governor, who, in turn, has thirty days in which to disapprove the OAL disapproval. The OAL has further responsibilities for overseeing a statewide review of administrative regulations, in accordance with the six standards enumerated above.

There are strings attached to the OAL's exercise of power. The expression of legislative intent appears to proscribe that agency's power to substitute its judgment for that of the proponent agency concerning the substantive policy embodied in the regulation. Further, OAL may consider in its review only the regulation proposed and the rule-making record developed in regard thereto; there are no provisions for *de novo* hearing. Lastly, the Governor's review of an OAL disapproval does not appear to be constrained by the same six standards governing OAL review.

Upon examination of the statute, and in the absence of historical experience, it is difficult to know whether an agency such as OAL will end up as part of the solution or as part of the problem. Certainly, the legislative findings at the outset of the statutory provisions would augur the former. The legislature sought to block unnecessary, needlessly complex, obscurely expressed, and fundamentally unintelligible regulations—particularly those, the underlying need for which was never established. On the other hand, the limitations on policy involvement, the limitation to the record previously developed, the thirty-day action period, and the apparently unconstrained gubernatorial veto are facets of the act which may work (or be worked) to disable the Office in the performance of its tasks. And, of course, there is always the question of who will review any OAL regulations.

The Legislature of Alaska, as discussed previously in this fine journal, has already taken several steps to address the ills thus addressed in California, most particularly in its "Sunset" legislation begun in 1977. Further, the Administrative Law Committee of the Alaska Bar Association is currently undertaking a review of the Administrative Procedure Act with the intent of

proposing statutory revisions to the current legislature to improve agency operation under the Act, including rule-making procedures. In the fight to throttle unnecessary regulation, other weapons are available. Among them is the legislative veto (an approach elsewhere employed), or legislative oversight hearings, or budgetary and appropriations controls to gain the attention of wayward agencies. As a last resort, the legislature, having given, may always take away from the jurisdiction of an administrative entity whose conduct and regulations fail to carry out the legislative intent.

The matter of creating an Office of Administrative Law, in sum, is worth considering in these times, but worth considering carefully, in light of the nature of the agency itself and the availability of other approaches. The lack of empirical evidence on actual operations and the multiplicity of potential roadblocks warrant circumspection—particularly when the intended solution comes in the guise of the identified problem. The progress of the OAL, as an agency to control agencies, is likely to prove an interesting spectacle, offering lessons of both the positive and negative kind for the future instruction of government here in Alaska.

(Anyone desiring a comprehensive review of this and other recent changes in California administrative law should consider Starr, C.M., "California's New Office of Administrative Law and Other Amendments to the California APA: A Bureau to Curb Bureaucracy and Judicial Review, Too," *Administrative Law Review*, Vol. 32, No. 4, pp. 713-732 (Fall, 1980).)

## AAWL

The appointment of qualified women to judicial positions is one of the goals of the Anchorage Association of Women Lawyers (AAWL). At this time, there are not (nor has there ever been) any women superior court judges nor supreme court justices.

At the January 7, 1981 meeting, AAWL formed a committee to study the use of various criteria to aid in furthering judicial appointments of women, and the possible endorsement of individual candidates by AAWL.

The committee is handled by Peggy Rawitz and she welcomes any suggestions and comments (279-1131 or 243-0568).

AAWL meets the first Wednesday of every month in the Tea Leaf at noon. All are welcome.

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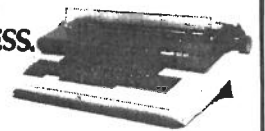
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## CLEO Begins Second Year

The Bar Association's Committee on Legal Education Opportunities (CLEO) is starting its second year of operation with high expectations for its scholarship program. Last year, the Committee was able to fund five \$1,000 scholarships for Alaskans attending law school. This year, the Committee hopes to fund more scholarships. This may very well be accomplished since the Committee has received a matching grant from the John Manders Foundation. The Manders Foundation will match up to \$6,000 raised by the Committee on a dollar-for-dollar basis. If the Committee can raise \$6,000 for its scholarship fund, the Manders Foundation will contribute \$6,000 to the fund, thereby increasing the number of scholarships that can be offered.

### Scholarship Requirements

The scholarship requirements have been set up to encourage Alaskans who are considering a law career. The applicant must be an Alaskan resident at the time of application, must demonstrate a present intent to return to Alaska to practice law after graduation, must be admitted to an ABA accredited law school or have the prospect of being admitted to such a school, and have a demonstrated need for scholarship assistance.

Last year, forty-five Alaskans applied for the scholarships. Of the forty-five, twenty were then enrolled in law school and twenty-five were first-year admittees. With the scholarship program's first-year exposure, and its ability to offer five scholarships, it is anticipated that an equal number of students will apply this year.

An application for the scholarship, as well as additional information, is available upon request from the Bar office and offices of the Clerks of Court

throughout the State. This year, the deadline for application is February 1, 1981, and awards will be made by May 1, 1981.

The scholarship applicants will initially be screened by a subcommittee of CLEO and finalists will be selected from that group by a committee composed of the president of the Board of Governors, one member of the Alaska Bar Foundation and the chairman of the Committee on Legal Education Opportunities.

### Rudd and Manders

In addition to the CLEO scholarship program, the Committee also acts as a clearinghouse for information and referrals to the Joe Rudd Memorial scholarship, and the John Manders scholarships.

The size of scholarships, and the number of scholarships to be offered, depends upon the amount of money in the scholarship fund. The CLEO is requesting that local bar associations, individuals members of the Bar and others support the scholarship program by voluntary contributions. The contributions are tax deductible and should be made payable to the Alaska Bar Foundation.

For additional information on CLEO's scholarship program and any activities, contact the following individuals:

- Carolyn Jones, Chairman, Anchorage
- Patrick Anderson, Vice Chairman, Anchorage
- Chief Justice Jay Rabinowitz, Fairbanks
- Robert Erwin, Anchorage
- David Case, Anchorage
- Chris McNeil, Juneau
- John Peterson, Ketchikan
- Bill Ford, Anchorage
- Norman Staton, Juneau

## Sunset Committees

### Senate Judiciary Committee Members

- Patrick Rodey, Chair (D-Anchorage)
- Don Bennett, Vice-Chair (R-Fairbanks)
- Bill Ray (D-Juneau)
- George H. Hohman (D-Bethel)
- Charles H. Parr (D-Fairbanks)

### House Judiciary Committee Members

- Fred E. Brown, Chair (D-Fairbanks)
- Donald E. Clocksin, Vice-Chair (D-Anchorage)
- Mike Miller (D-Juneau)
- Joseph Chuckwuk (D-Dillingham)
- Randy Phillips (R-Anchorage)
- Patrick M. O'Connell (R-Kenai)
- Charles Anderson (R-Anchorage)

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## ANNOUNCING:

An  
**Alaska Bar Association**  
**CONTINUING LEGAL EDUCATION SEMINAR**  
 on  
**WORKER'S COMPENSATION**

- Juneau: February 16 & 17, 1981  
Baranof Hotel
- Anchorage: February 19 & 20, 1981  
Northern Lights Inn
- PROGRAM**  
FIRST DAY
- 8:30- 9:00 a.m. Registration
  - 9:00-10:00 a.m. **The Client Interview:**  
How to Obtain the Necessary Information  
William M. Erwin, Esq.
  - 10:00-10:15 a.m. **Discussion**
  - 10:15-10:30 a.m. **BREAK**
  - 10:30-11:00 a.m. **How to Research the Law in the Worker's Compensation Area**  
Joseph A. Kalamarides, Esq., Eckert, Kalamarides and Associates, P.C.
  - 11:00-11:45 a.m. **Settling the Case:**  
What to Look for and How to Approach It  
William M. Erwin, Esq.
  - 11:45-12:00 Noon **Discussion**
  - 12:00- 1:30 p.m. **LUNCH BREAK**
  - 1:30- 2:30 p.m. **How to Present your Case Before the Worker's Compensation Board**  
B. Gil Johnson, Esq., Johnson, Christenson and Associates
  - 2:30- 2:45 p.m. **Discussion**
  - 2:45- 3:00 p.m. **BREAK**
  - 3:00- 4:30 p.m. **Problem Areas in Worker's Compensation Law**  
William M. Erwin and Joseph A. Kalamarides
- SECOND DAY**
- 9:00- 9:45 a.m. **The Alaska Worker's Compensation Board's View in Handling Cases**  
Rebecca Branchflower, Hearing Officer, Alaska Worker's Compensation Board
  - 9:45-10:00 a.m. **Discussion**
  - 10:00-10:45 a.m. **Retraining and Rehabilitation**  
Michael Birdsall, Division of Vocational Rehabilitation, Department of Education
  - 10:45-11:00 a.m. **Problems with Rehabilitation**  
B. Gil Johnson, Esq.
  - 11:00-12:00 Noon **Defense Approach to Worker's Compensation Cases**  
Michael A. Barcott, Esq., Faulkner, Banfield, Doogan & Holmes
  - 12:00- 1:30 p.m. **LUNCH BREAK**
  - 1:30- 2:30 p.m. **Concurrent Jurisdiction Problems**  
John H. Bradbury, Esq., Bradbury, Bliss & Riordan
  - 2:30- 2:45 p.m. **Discussion**
  - 2:45- 3:00 p.m. **BREAK**
  - 3:00- 4:00 p.m. **Other Jurisdiction Problems**  
William M. Erwin, Esq.

PLEASE NOTE: Speakers other than Messrs. Erwin and Kalamarides are scheduled only to appear in Anchorage. The Juneau schedule has not been finalized.

Leroy E. Cook  
Legal Investigator  
dba

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## TVBA Minutes

[continued from page 11]

office for the 1981 year be Calvin Kelly. The motion passed unanimously, and the maker of the motion requested that the secretary be ordered to collect a search committee to assure the presence of Mr. Kelly at the Fourth of July picnic to receive his award. Beistline suggested that Ed Merdes, as sponsor of Mr. Kelly, be given the honor of making the presentation speech. As things were going it was finally agreed that Robson as president directed Robson as secretary to write to Merdes ordering that he produce Calvin Kelly and/or be chief of the search committee to impound Mr. Kelly and assure his presence as well as appearing and delivering the speech of appointment.

Reverting to the door prize announcement, Ralph Beistline announced that one of the door prizes would be for the person whose costume was most consistent with the theme. Dick Savell said that if the theme was Ground Hog's Day, he was already in costume and a certain winner. It was moved by Beistline and seconded by Mike Lessmeier that we appropriate \$100 from the treasury to buy four prizes. A point of order was raised as to how we were going to get the \$100 since the treasurer was last heard of when in the company of Calvin Kelly and heading south. There was no vote, but the motion passed anyway. President-for-a-day Robson appointed the last four past presidents—Ralph Beistline, Dick Madson, Andy Kleinfeld and Hugh Connelly—as a nominations committee to produce volunteers for next year's TVBA offices. Judge Connelly scheduled their meeting for Monday in his chambers. Judge Blair suggested that we have crepe paper streamers for decoration and that we bob for apples. Since there was no agreement as to what fluid would be used to float the apples, Niesje Steinkruger resolved our problems by moving, seconding and passing a motion to turn the entire fiasco to Chairman Mike Lessmeier.

Dick Savell tried to survey the membership for interest in a pinball tournament. The discussion broke down on the question of whether full-size pinball machines or the small, hand-held models would be used. This caused Savell to be sorry that he had raised it, and it seemed that that remark had just slipped out.

Dick Burke and Chris Zimmerman reported for the Process Servers Committee that they had no report and wouldn't give one even if they had same. Hugh Connelly for the Legislative Committee indicated that Senator Ziegler had introduced a bill calling for a three-year extension of the Bar Association "as is" and pointed out that his Legislative Committee meets at noon on Thursdays in his chambers and that the attendance was less than overwhelming.

On a new subject, moved by Judge Blair, seconded by Dick Savell, that an unconditional demand be directed to the Bar Rag to cease and desist printing obscenities. Andy Kleinfeld moved, with Dick Savell seconding, that this be amended to include split infinitives along with obscenities. The amendment was voted on with a nothing to nothing tie; the Chair breaking the tie in favor of the amendment. The main motion was defeated two to three, except that Savell requested to change his vote to the winning side so that he could move to reconsider. Dick Burke raised the question of the first amendment. In fact, he raised it about 15 times. Judge Blair suggested that on the question of free speech under the first amendment Dick Burke should shut up. The reconsideration passed; the main motion passed, and the secretary was instructed to erase any and all obscenities out of the letter of demand to be sent to the Bar Rag. Judge Blair announced that he had been delegated as one of the three "soldiers" to roll away the stone at the door to Allan

Compton's tomb, so that his ascension could become known to the world. He suggested that the TVBA might want to rent him a Nile River barge for his trip to Juneau. Voices shouting to be heard made the points that: (a) Blair should not receive one red cent, (b) he should be instructed to keep his mouth closed at all times, and (c) he should let everyone know that he came to the ascension as a representative of the TVBA. Assuming that these voices were a bona fide motion and second, the acting president asked if there were any votes in opposition. While the membership was still trying to figure out why the ballot was taken in that order, the motion was declared passed unanimously. So much for Robson's Rules of Order.

On that stirring note, a benediction was given and the meeting ended.

### King Arthur

#### January 30, 1981 Meeting

The meeting was called to order by Vice-President Bob Groseclose. A real, live guest, Paul Pasday, of Anchorage, introduced himself, and Dick Madson (of the full mouth) attempted to introduce Blaire McCune who would, on Monday, become a public defender, and a beautiful companion whose name he forgot. There were a number of protests at the minutes, and the secretary agreed to put a P.S. on the letter to the Bar Rag criticizing the use of split infinitives in the paper. Judge Van Hoomissen suggested that we send our minutes to *Hustler Magazine*. Niesje Steinkruger moved, Art Robson seconded, that Messrs. Savell and Link be instructed to vote against the defunding of the Bar Rag and further that the editorial board be used to replace the Bar's Board of Governors, so that they could run the whole show. This motion passed 30 to one. The one (Dick Burke) maybe not having figured out that he was voting against preventing censorship.

On the question of moving the piano for our Fourth of July picnic, Barbara Schumann, Niesje Steinkruger and Linda Walton were appointed as a committee to help Jim Bell. The piano weighs 550 pounds. Judge Blair announced that he had attended Allan Compton's coronation, but that the Juneau Bar had suffered cruelly at inflationary costs for potato chips, etc., as a result of which they had a cash bar. After due consultation with the Chief Justice and considerable participation in the cash bar, and because the Ketchikan Bar had bought a hundred dollars worth of drinks for all in attendance, our judicial dignitaries telephoned the treasurer who meekly submitted to the idea of the TVBA springing for another hundred dollars for a noble cause; whereupon the presiding judge borrowed the money from a lady Juneau Bar member. Michelle Minor moved that \$100 be appropriated to a worthy cause. The motion passed six to two with one abstaining and no one seconding it. Under committee reports, Mike Lessmeier reported that the halibut which had been going to be cooked for the Fourth of July picnic had died of a fish version of social disease and therefore it would not be on the menu. Between he and Ralph Beistline, they agreed that there was a pinball machine, a commercial pool table, lots of bar stools, many rooms, etc., and that we would basically be taking over the Fox Roadhouse, with the exception of eight regulars who haven't left the bar there for some weeks now. Under announcements, Judge Connelly or somebody (the secretary had a hangover) announced that the Supreme Court would like *amicus curiae* briefs on the question of confidentiality of Bar Association disciplinary records. After it was made clear that no one would have to read anything or do much thinking, Bob Groseclose, Andy Kleinfeld, and Ralph Beistline were appointed to consider the matter.

Art Robson gave a CLE report on the upcoming Worker's Comp seminar

in Anchorage and Juneau, and the members were told that they could show the Bar Association tape at home if they wished but they must not record dirty movies over the top of any part of it. Judge Connelly reported for the Legislative Committee that there were several bills relating to recording of documents and that they were specially splitting off a committee to consider this group of legislative bills. Jim DeWitt, Doris Loennig and Gene Beland were to be added to the committee for this consideration. Jim DeWitt groaned about having no money in the treasury, and 200 attorneys in the Fairbanks area to bill. However, no one felt very sympathetic. Dick Burke explained his dilemma about having paid his bar dues twice during 1980, which was all Bob Groseclose's fault, so Dick Madson moved that Burke no longer be considered a dead beat. In the midst of the heated debate over Burke's virtue, the meeting adjourned.

By executive fiat.

### King Arthur

#### CLE CHINA TRIP

There are still places available for the upcoming CLE trip to Hong Kong and China. The trip will leave Anchorage on May 10, 1981 and return May 31, 1981. The price is \$3,990.00 per person which includes airfare, hotels, and most meals. For more information contact Kenneth Wallack at Johnson, Christenson & Associates, 1007 West Third Avenue, Anchorage, Alaska 99501. Telephone number 279-9422.

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**Poetic Justice**

Having reached the age of unzipped fly,  
Not yet retired sine die,  
John appeared in Court one day  
In *deshabille*.

An old felt hat he wore askew.  
His boots were wet with morning dew.  
A fishing vest, soiled with dirt,  
Ill-concealed a frayed suede shirt.

His client Sue, a shapely lass,  
Stood charged with peddling ass.  
The judge looked down at John and  
Sue,  
His phiz was flushed a crimson hue.

"How dare you so appear,  
"Garbed out in fishing gear.  
"You show this Court no respect.  
"Just a moment, I must reflect."

"On second thought, you honor me,  
"For, as all can plainly see,  
"You respect me more than fish  
"To appear as you are with that comely  
dish."

"You interrupt a fishing trip,  
"With justice to come to grip.  
"No greater sacrifice could be made  
"For a client commercially laid."

"As to the lass, I dismiss.  
"Godspeed with you to streamside  
bliss."  
This is a dream. It could never happen.  
An Alaskan judge would surely  
zappem.

William V. Boggess

**Permanent Fund**

The State's attorney is wearing now  
The look of the hound we call the basset,  
For the courts have ruled on the giveaway law  
And thrown him out on his frozen asset.

—Richard Peter

**Consolation**

If your desperate summary for the Defense  
Still results in naught but conviction,  
Everything is not lost yet, for this year you might  
Win the Pulitzer Prize for Fiction.

—Richard Peter

**The Whole Truth**

I swore to tell it.  
But the judge said it was irrelevant.  
My attorney said it was illogical.  
The other lawyer said it was immaterial.  
The clerk said it was inaudible.  
The bailiff said it was profane.  
So I only told part of the truth.  
I wonder if it was the right part.  
I guess not. The jury said it was unconvincing.

—Richard Peter

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**Nightfall**

The winter wind is waning now;  
For the hopeless there is hope,  
Though dull-eyed men are  
destined.

Dust in a grasshopper soup;  
Quarantine death signs on the  
door;  
Polio cases down the block;  
The near certain signia of coming  
war.

The winter night is nearing dawn;  
The dust storms are subsiding,  
Though dull-eyed men are  
destined.

Man sprung loose to war;  
Death stars in the window;  
Victory trains and victory men  
Apologize to the widow.

The summer sun is beating down;  
The rain drops are a pleasure,  
Though dull-eyed men are  
destined.

A flag on the moon,  
And some oil on the river;  
Some birth, some life, some death;  
It's yours, says the victory giver.

The summer seeds speed autumn now;  
The land will soon be frozen,  
Though dull-eyed men are  
destined.

My old man's down now;  
Let's smoke some dope.  
The carnival's in town now;  
Let's go see the dwarf.

—Les Miller

**Poor Lillian Jones**

There goes Lillian Jones  
on her way to the village bar—  
poor thing.

Time was when folks thought  
she had the world by the tail,  
remember, about ten years ago?

She had her family then,  
you know. That Jim,  
wasn't he a handsome one?  
And those boys!  
They was the cutest set of twins  
you ever did see.

Everything was fine  
till that chorus girl come to town  
and her and Jim run off.

Then there was that terrible  
boating accident. Remember  
how they dredged the lake  
for two, three weeks  
before they found them little bodies?

There goes Lillian Jones  
into the village bar—  
poor thing.

Well, it just goes to show  
some folks can't take their knocks.  
Another cup of coffee, Maxine?

—Susan Hallock

**The Color of Anchorage**

If I colored Anchorage  
I'd make it red  
for spectacular sunsets

and the anger  
in sourdough eyes  
at the changes  
in their city  
since statehood  
and the pipeline;

clear-white of the frost  
on bare branches  
in the dead of winter

and the springs in November  
hanging in midfall  
from the cliff-sides:

gravity suspended  
for the duration  
to be unbound in spring.

—Susan Hallock

**Shards**

The raging flame that fossilized the clay  
Has set his thumbprint for eternity  
Where handle kisses cup. The steaming  
tea

Shapes presence in my palms, while far  
away

The potter at his wheel works on until  
He loads the kiln with vessels, each  
a self

That sets a part of him upon the shelf,  
And holds an emptiness my longing  
fills.

For he and I are there and here alone,  
And separation is a lingering death  
Where memory's a cup and nothing  
more.

I tremble as my thumbprint fits his own  
To taste his warm mouth in the  
teacup's breath,  
Remembering the fires of before.

—Diana Conway

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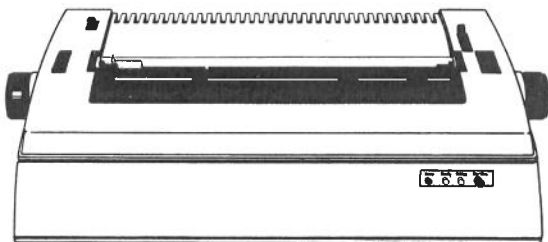
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