



THE NEW JUDGES

Starts on page 8

PLUS:

Historical bar, rules amendments, movies, columns, humor, people, puns, poems, Samantha.....and wine.

\$2.00

The
Alaska

BAR RAG

VOLUME 14, NO. 5

Dignitas, semper dignitas

NOVEMBER-DECEMBER, 1990

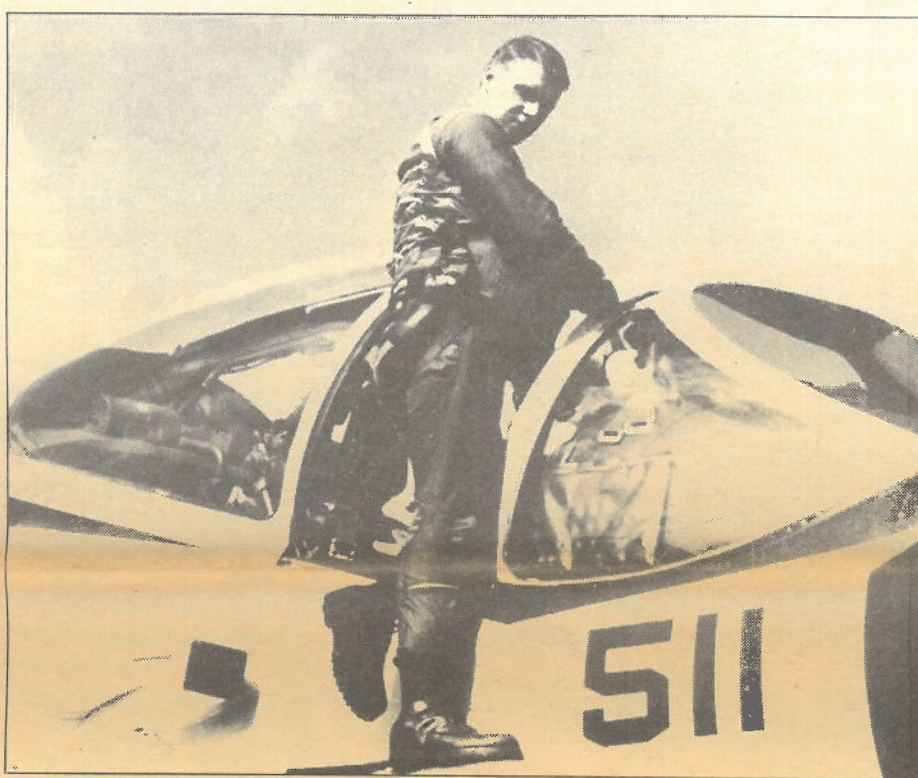
New U.S. attorney seeks feds' cooperation

BY MICKALE CARTER

Wevley Wm. Shea began his tenure as the United States Attorney for the District of Alaska this August. United States Attorneys are appointed by the President of the United States with the approval by the Senate. Shea brings to his new job a varied experience. He hopes that this experience will help guide him as the top United States Department of Justice official in Alaska.

The Man

Born in 1944 in Spokane, Washington, Shea enlisted in the Navy in 1961, even before he graduated from High School. He became a bombardier-navigator, serving on the A6A Intruder which made two combat cruises to Southeast Asia aboard the U.S.S. Ranger from 1967 through 1969. In all Shea completed over 100 combat missions, the majority over Vietnam in the Hanoi-Haiphong areas. In addition to various citations and campaign ribbons, he received 10 air medals, the Navy Commendation Medal and the Meritorious Unit



Wev Shea mounts up for battle in a previous life.

Commendation.

Shea was commissioned as an Ensign in 1966 and attained the rank of Lieutenant by the time of his honorable discharge in 1970. He then attended California State University at San Jose where he earned a BA in Economics. In 1976 he graduated from McGeorge School of Law.

While he was working on his degree in Economics, Shea worked with the Deputy Public Defender; Juvenile Law for Santa Clara County, California. Shea did the background work necessary for the full representation of minors appearing in Juvenile Court, including searching for out-of-home placement. He also was active in Project P.O.W. The goal of Project P.O.W., sponsored by the Red River Valley Fighter Pilots Association, was to heighten the public awareness of the plight of prisoners of war and persons missing in action in Southeast Asia. To that end, Shea gave numerous speeches to high school and college students, Rotary Clubs, Boy Scouts, and

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THE TORTOISE WINS AGAIN



Take a candidate to lunch

BY PHYLLIS SHEPHERD

Michael O'Callaghan had been named as one of America's "unsung heroes" by *Newsweek* magazine back in 1987. He ran for Governor's office this November on the Political Party ticket. He has usually been controversial; I decided to check in on him and his family.

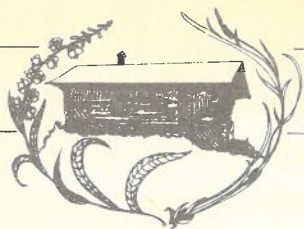
The gate swings open easily into the front yard where the O'Callaghan house sits radiantly, canary yellow sprinkled with primary colors. There is a festive air about this place in Fairview. It seems to be made of Guatemalan textile.

Mike has been most frequently recognized in the media for his "dumpster diving" activities for the hungry. He has formed a network for food distribution, with the help of his wife and his four children, retrieving salvageable food from dumpsters. He manages individuals and organizations to pick-up food and to recycle it to the less fortunate in Anchorage. He and his wife, Lydia, especially enjoy having individuals distribute directly to individuals without the mediation of an organization. The personal caring, they believe, makes a major

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Anchorage, Alaska 99510

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HISTORICAL BAR

BY WAYNE ANTHONY ROSS

When I left the bench of the Family Court, to go into the private practice of law, I first went to work for an Anchorage attorney who had a small branch office in Cordova. As the junior member of the firm, I was often designated as the guy who had to "cover the Cordova office."

Our Cordova office was in a small A-frame about six blocks from downtown. In those days, it cost only \$40 or \$50 round trip, to fly to Cordova, so we could afford to send someone down there every week. I would fly to Cordova on Friday, and come home on Saturday. Our part-time secretary lived in the A-frame with her husband and kids, so when I stayed overnight, I had to stay in a hotel.

At the time, we represented a fellow who owned one of the oldest hotels in Cordova. He always had a room for his attorneys. Evidently he liked us because he would always give us one of the "deluxe" rooms on the second floor. The "deluxe" rooms were different than most of the other rooms. The "deluxe" rooms had a window and a sink. The window overlooked Main Street. The bathroom was down the hall.

On the first floor of the hotel was the wildest bar in Cordova. It featured a guy called "The One Man Band." If I recall, he strummed a guitar, while singing and playing the harmonica. At the same time,

he had an electronic bass that went "Boom Boom Boom da Boom, Boom Boom Boom da Boom" incessantly.

The "One Man Band" had a favorite song, "The Yellow Rose of Texas" which he played quite often. When he was drinking, which was every night, he would forget that he had just finished singing "The Yellow Rose of Texas" and he would sing it again. In fact, just about every second song he sang was "The Yellow Rose of Texas," and that went on all night, until around 2:00 a.m. Of course, "The One Man Band" had the volume on his microphone turned up, full blast, and his electronic bass was "Boom Boom Boom da Booming" full volume as well.

The "deluxe" room that we were given by our client, the hotel owner, was located directly over the bandstand. As a result, when "The One Man Band" started up, generally around 10:00 p.m., the entire "deluxe" room would vibrate violently, in a "Boom Boom Boom da Boom" cadence, while the sound of a guitar, a harmonica, and "The Yellow Rose Of Texas" blasted through the thin wood floor. This, of course, made sleeping a real challenge.

In the winter time, the drain in the sink in the "deluxe" room would freeze. Unfortunately, the faucet flowing into the sink didn't. It dripped instead. It dripped very loudly, "Ploop Ploop Ploop."

Of course, when the water

dripped into the sink, because the drain was frozen up, the water had no other option but to fill up the sink. It did this quite quickly.

When the sink filled up, the water leaked over the side of the sink, "Plop Plop Plop." To keep the room from flooding, we would have to put a waste basket under the sink to catch the water dripping out of the sink. Thus, in addition to the sound of a guitar, a harmonica, an electronic bass going "Boom Boom Boom da Boom," and "The Yellow Rose of Texas" for the umpteenth time, we endured the "Ploop Plop Ploop Plop Plop" of dripping water within six feet of our bed.

Generally around 1 a.m., the "Ploop, Plop, Ploop, Plop" would take on a new urgency, and we would realize that the waste basket had filled with water, and needed emptying. When that happened, of course we were faced with a problem: "Where does one get rid of five or so gallons of water when the drains are frozen?"

The answer, of course, was simple. After all, we had the "deluxe" room with a window which overlooked Main Street.

Whenever the wastebasket needed emptying, we merely lugged it over to our window, raised the sash, and poured the full bucket of water out the window. Occasionally a bar patron picked just that moment to walk out of the front door of the bar, and found himself doused with a deluge of water.

Generally, however, the water merely hit the sidewalk where it promptly froze. Bar patrons would then come out of the bar, slide on the ice, and fall down. Nobody ever got hurt, mainly I think, because at that hour of the morning, none of them were capable of feeling any pain.

I remember one time the Fire Marshal closed down our client's hotel as a fire hazard. The Fire Marshal felt the hotel should have been equipped with fire escapes, and wouldn't let the owner re-open the hotel until the fire escapes were installed. The owner installed fire escapes constructed out of 2x4s, and was allowed to reopen. We always felt, however, that if there had ever been a fire, the first thing to burn would have been those 2x4s.

In the summertime, we'd worry about a fire in the hotel when we stayed there. We would always greet the morning with a prayer of thanksgiving for having survived the night.

In the winter, however, we didn't worry about fires. After all, we always had a wastebasket full of water in our room!

Cordova was, and is, a beautiful town, and while I opened my own branch office there some 13 years ago, I don't get to go there much anymore. The airfare, round trip, is around \$150 now, and that is just too expensive to justify an overnight trip, when there may or may not be clients waiting there for the attorney. But whenever I hear "The Yellow Rose of Texas," I think of "The One Man Band" and Cordova.

This column originally appeared in the Anchorage Times.

LAWYER JOKE CONTEST ANNOUNCED

The Alaska Bar Rag is proud to announce the First Lawyers' Humor Contest. Send in your funniest lawyer jokes. Our distinguished panel of judges will select the best of the Bar for publication in future issues of the Bar Rag.



EDITOR'S COLUMN

By Ralph Beistline

Not long after I became editor of the Bar Rag, I received a Lincolnian letter from a young girl suggesting that I grow a beard. She had apparently seen Tom Selleck wearing a beard in one of his latest movies and felt that with a similar growth I would be a dead ringer for the actor.

She also noted that intellectuals and newspaper editors should have beards. "It will give the paper prestige" she wrote.

Not wishing to offend the young girl or trample tradition, I was tempted to comply with her request immediately, but thought that I

should first confer with editor emeritus, Harry Branson. As I entered Branson's office, I noted that he had a prominent beard and was reminded that he had sported such throughout all of his days as editor.

Some old photographs of Jim Bendell, my predecessor with the paper, confirmed that he had worn a beard during his editorial days. Further research established that only Gail Fraties served at the helm of this paper without benefit of a full beard, although he did sport a mustache that he could easily transform into a full beard if necessary.

The question, though, still

haunted me and so I did the natural thing — I asked Samantha Slanders about it when I ran into her at the bar office. She told me that in her experience men, upon reaching middle age, frequently do one of three things: they have an affair, they buy a Corvette, or they grow a beard. That was enough to convince me.

I grew the beard and it hasn't been all that bad. The paper's prestige has grown tremendously, and I have become accustomed to signing Tom Selleck autographs.

The Alaska BAR RAG

President Cooper has established the following schedule of board meetings during his term as president. If you wish to include an item on the agenda of any board meeting, you should contact the Bar office at 310 K Street, Suite 602, Anchorage, Alaska 99501 (272-7469) or your Board representatives at least three weeks before the Board meeting.

Jan. 18 & 19, 1991
March 22 & 23, 1991
June 3-5, 1991, Fairbanks
June 6-8, 1991, Fairbanks
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The Alaska Bar Rag is published in January, March, May, July, September, and November.



LETTERS

Mistaken identity of two Prices

In your September-October Bar Rag, you incorrectly stated in the People column that Robert Price, formerly with Groh, Eggers & Price is now with the Bristol Bay Native Corp.

This is to advise you that Robert E. Price, formerly of Douglas, Alaska, is now the General Counsel of the Bristol Bay Native Corporation.

(Ed. note: Robert T. Price is still with Groh, Eggers & Price).

To the Friends of Jim Ginotti:

Recently, Jim lost his life in an airplane accident. Jim had been a lawyer since 1967 and practiced law in California until he came to Alaska in 1975. Jim sat as the Valdez District Court Judge for a brief period of time. In 1977, Jim went back to private practice. He practiced in Anchorage, Glennallen, Valdez, and Cordova. In 1983, he moved to the Mat-Su Borough where he opened his office in Wasilla. There Jim continued his practice until his death on September 7, 1990, when he and his plane were lost in Prince William Sound. Even then, Jim was taking care of business as he was returning from a legal seminar.

In both Valdez and the Mat-Su Borough, Jim was especially known for his desire to help young people. He worked hard in legal matters involving children and actively sought to make a better future for them. Jim was also actively involved in providing legal instruction to local schools in the Mat-Su Borough and Valdez.

In memory of Jim's work with young people, the Mat-Su Bar Association will be administering a scholarship fund for high school students in Valdez, the Mat-Su Borough, and the Copper River Valley. The scholarship will help college-bound students with books and tuition.

Please make your contribution payable to the "James Ginotti Scholarship Fund." Any amount will be appreciated and will help to fulfill Jim's vision of a better future for our children. Please send your contribution to

Eric Jensen
Mat-Su Bar Association
Treasurer
67 East Park Avenue
Wasilla, Alaska 99687.

Law review

The upcoming December 1990 issue of the *Alaska Law Review* (Volume VII, No. 2) will include articles by Alaska attorneys on (1) the history of appellate review of sentencing in Alaska (Susan DiPietro, Alaska Judicial Council), (2) the current status of state action doctrine under the Alaska constitution (Scott Nordstrand, Owens and Turner, Anchorage and Paul Seyferth, Assistant District Attorney, Anchorage) and (3) constitutional implications of restitution in

criminal cases (Charles Pengilly, Alaska Public Defender Agency, Anchorage).

As well, student-authored pieces in the December 1990 issue will discuss the current state of Alaska law on the following topics: piercing the corporate veil, the viability of damage awards for a decedent's pre-impact fear, and the constitutional limitations on investigative stops by law enforcement personnel.

Articles that are under consideration for the June 1990 issue (Volume VIII, No. 1) include a report by the Alaska Judicial Council on the results of their study of the plea-bargaining ban and its effects on Alaska's judicial and penal systems over the last ten years. Also, attorneys have submitted (or have agreed to submit) articles on the takings clause and the common use clause of the Alaska constitution, problems with the methods for calculating wrongful death damages, subsistence, and an overview of Alaska's juvenile justice law.

The Year in Review, a summary of Alaska Supreme Court cases handed down in the year, has been

Continued on page 6

TVBA fugitive flees; networks with Maine

The following letter and interesting idea from Maine were mailed to the TVBA's Gail Ballou in a plain brown envelope.

After more than five years' absence from Alaska I have finally come across something worthy to send back to my former compatriots and laborers in the legal vineyards of Fairbanks. I am sending it along to you in the hope that it will make it into some meeting or other of the TVBA and from there to a place of immortality in the pages of The Bar Rag. Unfortunately my brain has become so addled since my return to Jersey that I have forgotten the TVBA's "official" mailing address, so I hope that this will get to where it should be (pardon the expression) in short order.

The enclosed is a copy of an actual bill that was introduced in the last session of the Maine (the state that gave us Stephen King) Legislature, and I think that without too many amendments it would make a fine addition to the Alaska Statutes. Alaska will probably want to make its own adjustments such as not hunting attorneys on the same day airborne, but I'm sure that ingenuity will overcome any technical problems that may arise with enacting it into law.....

This whole thing was provided to me by an accomplice of mine at Deloitte & Touche in NYC, proving once again that no matter how big large accounting firms get, there is always time for doing socially significant stuff.

In a more jugular vein, since I came to NJ from Alaska, more than 8,000 new attorneys have been admitted to practice here; that makes approximately 41,000 lawyers in the state with seemingly no end in sight as more people emigrate from the huge law factories of NYC and

Philadelphia in search of greener pastures and a lower billable-hours-per-year quota than is prevalent in either of those places. The starting salaries at top firms in NYC and Philly for first-year associates is approximately 125 percent that of a federal district court judge, so there has been a more-or-less unpublicized exodus by federal district court judges (and, less often, state court judges) into large firms. Fun, fun, fun...

Personally I am doing ok and have no major maladjustments to

complain about. Empires fall, dynasties crumble, civilizations deteriorate, star systems collapse, elementary subatomic particles decay, BUT LITIGATION GOES ON FOREVER.

I hope that this finds you and all other coconspirators in the TVBA well and happy. Let me know if youse guys are in need of an Ambassador Plenipotentiary to New Jersey, and I will be glad to send my application.

Sincerely,
Salvatore Iacopelli



114th MAINE LEGISLATURE
FIRST REGULAR SESSION - 1989

Legislative Document No. 1792

H.P. 1004 House of Representatives June 30, 1989

Reference to the Committee on Fisheries and Wildlife suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Senator CARPENTER of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Establish the Season and Bag Limits on Attorneys

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA c.434 is enacted to read:

- §712-A. Season on Attorneys
1. Any person with a valid Maine State hunting license may harvest attorneys for recreational (noncommercial) purposes.
 2. Taking of attorneys with traps or deadfalls is permitted. The use of currency as bait is prohibited.
 3. Killing of attorneys with a vehicle is prohibited. If accidentally struck, remove dead attorney to roadside and proceed to nearest carwash.
 4. It is unlawful to chase, herd, or harvest attorneys from a snow machine, helicopter, or aircraft.
 5. It shall be unlawful to shout "WHIPLASH," "AMBULANCE," or "FREE SCOTCH" for the purpose of trapping attorneys.
 6. It shall be unlawful to hunt attorneys within 100 yards of BMW or Mercedes dealerships, including Wednesday afternoons.
 7. It shall be unlawful to use cocaine, \$100 bills, prostitutes or vehicle accidents to attract attorneys.
 8. The use of the above attractants may be used out-of-season until two weeks before the officially-published season begins, if it previously has been the policy of the user to place such attractants at various times throughout the year as a pastime and for entertainment.
 9. It shall be unlawful to hunt attorneys within 200 yards of courtrooms, law libraries, whorehouses, health spas, bars, ambulances or hospitals.
 10. If an attorney is elected to government office, it shall be a felony to hunt, trap or possess them.
 11. Stuffed or mounted attorneys must have a State Health Department inspection for rabies and syphilis.
 12. It shall be illegal for a hunter to disguise himself as a reporter, drug dealer, female legal clerk, sheep, accident victim, physician, bookie, or tax accountant for the purpose of hunting attorneys.
- §712-B Bag Limits

- The following bag limits are established.
- | | |
|---|--------------|
| 1. Yellow Bellied Sidewinder | 2 |
| 2. Two Faced Tort Teaser | 1 |
| 3. Back Stabbing Divorce Litigators | 3 |
| 4. Any not otherwise listed | |
| 5. Big Mouthed Pus Gut | 2 |
| 6. Advertising | 7 |
| 7. Honest Attorney | Extinct |
| 8. Cut Throat | 2 |
| 9. Back Stabbing Whiners | 3 |
| 10. Brown Nosed Judge Kisser | 2 |
| 11. Silver Tongued Drug Defender | \$500 Bounty |

STATEMENT OF FACT

The purpose of this bill is reflected in the title and is firmly grounded on public sentiment.

BAR NEWS

Proposed Amendment to Bar Rule 52 submitted by LFCP Committee on 9-11-90

RULE 52. CONSIDERATION BY COMMITTEE

(a) Upon receipt of an application the Committee shall conduct such investigations and hold such hearings as it determines necessary to establish whether the application should be granted. Hearings will be conducted informally.

Both the applicant and the lawyer shall be afforded opportunities to present argument and evidence, and to cross-examine opposing witnesses. The Committee may request the attorney selected pursuant to Rule 47(a) to present argument and evidence, if the Committee believes this will assist it in reaching its decision. The Committee shall provide a copy of the application to the lawyer complained of and shall notify the lawyer and the applicant of the date and time for a hearing on the application.

(b) The Committee may delegate responsibility for holding a hearing to a subcommittee of one or more of its members. The subcommittee shall prepare a proposed report containing the information required by Rule 52(c), which shall be promptly considered by the Committee. The Committee shall (1) approve and adopt the proposed report, or (2) remand the proposed report to the same or a different subcommittee for the taking of further evidence or for preparation of a new proposed report, or (3) consider the matter de novo on the basis of the record made at hearing.

(c) At the conclusion of the Committee's consideration of an application pursuant to this Rule, it shall promptly make and transmit to the office of the Alaska Bar Association a report consisting of a brief statement of the proceedings had, clear and concise findings of fact adopted by the Committee, a brief statement of its conclusions and a recommendation to the Board.

(d) Upon receipt of the report, the Executive Director shall provide copies of it to the attorney or his representative and the claimant.

(e) [ON APPLICATION TO THE COMMITTEE BY EITHER PARTY TO A CLAIM, THE COMMITTEE WILL MODIFY OR CORRECT A REPORT IF:

(1) THERE WAS AN ERROR IN THE COMPUTATION OF FIGURES OR A MISTAKE IN THE DESCRIPTION OF A PERSON, THING, OR PROPERTY REFERRED TO IN THE REPORT;

(2) THE REPORT IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS OF THE PROCEEDING; OR

(3) THE REPORT NEEDS CLARIFICATION.

AN APPLICATION FOR MODIFICATION SHALL BE FILED WITH THE EXECUTIVE DIRECTOR OF THE ALASKA BAR ASSOCIATION WITHIN TEN (10) DAYS AFTER DELIVERY OF THE REPORT TO THE PARTIES. WRITTEN NOTICE OF THE APPLICATION FOR MODIFICATION WILL BE SERVED PROMPTLY ON THE OPPOSING PARTY, STATING THAT OBJECTION TO THE APPLICATION MUST BE SERVED WITHIN TEN (10) DAYS FROM THE RECEIPT OF THE NOTICES OF THE APPLICATION FOR MODIFICATION. AFTER RULING ON AN APPLICATION UNDER THIS SECTION, OR IF TIMELY APPLICATION IS NOT MADE, THE COMMITTEE WILL FORWARD ITS REPORT TO THE EXECUTIVE DIRECTOR FOR CONSIDERATION BY THE BOARD. THE EXECUTIVE DIRECTOR WILL PROMPTLY NOTIFY THE PARTIES OF AN ACTION TAKEN UNDER THIS SECTION.

(F)] within twenty (20) days of receiving notice of the filing of the report with the Board, any party may file written objections to the report.

Volunteers needed for discipline

The Board of Governors is establishing a pilot program to use volunteer attorneys to assist in the investigation and prosecution of discipline cases. The Board is soliciting lawyers to serve as volunteers to assist Bar Counsel to investigate, develop and/or prosecute those complaints that Bar Counsel determines appropriate for such action.

This past year, the Board of Governors made reducing the discipline caseload a high priority. The Board wants to reduce the backlog of cases so that both members of the public and attorneys who have complaints filed against them feel that the cases are handled in a timely manner. To this end, the Board has hired a full time paralegal to assist bar counsel, and established new guidelines for the management of the discipline cases.

Volunteer assistance will be utilized after Bar Counsel does the initial screening of a complaint against an attorney. After Bar Counsel decides to open an investigation on a complaint and obtains an initial response from the attorney, the volunteer would conduct the investigation, including collecting witness statements, reviewing records, and such other services as are necessary to develop the facts relating to the complaint. A factual report will be made to Bar Counsel for his review and a

determination made of the course of action to be taken. If private discipline is indicated, the volunteer would prepare the necessary paperwork. If a formal hearing is determined to be appropriate, either Bar Counsel or the volunteer would prosecute the case.

The Board of Governors was first approached by the Board of Directors of the Anchorage Bar Association who offered to work with the Alaska Bar Association to develop a list of qualifications for volunteers and procedures for their selection to assist with any particular matter, as well as the regulation of their work on behalf of the Bar Association. Several lawyers have expressed interest in helping as volunteers in a pilot program to get it started. Board of Governors members in the First District, and the Second and Fourth Districts, have agreed to coordinate such efforts in those areas.

A Board of Governors subcommittee has been appointed to set up the process and guidelines. If you want to discuss this with members of the Board subcommittee, you may contact one of the following: Third District: Pat Kennedy, John Murtagh, Bruce Bookman; First District: Barbara Blasco, Mike Thompson; Second and Fourth District: Dan Winfree. If you are interested in adding your name to the pool of volunteers, please contact Steve Van Goor or Deborah O'Regan at the Alaska Bar Association office at 272-7469.

Panel meets at Harry's

A panel discussion on the trial of criminal cases will be held at Harry's Restaurant, 101 W. Benson, (back room) on December 3, 1990. U.S. District Court Judge Andrew J. Kleinfeld will give views from the bench about criminal trial practice. He will be joined by former U.S. Attorney Michael Spaan, now of counsel at Bogle & Gates, and Dan Dennis, a former Assistant U.S. Attorney, who has tried a variety of cases both as a prosecutor and defense attorney.

The discussion will start at 5:30. For more information, contact Mark Davis at 258-7001.

Proposed Amendment Bar Rule 48 submitted by LFCP Committee

Sept. 11, 1990

Rule 48. The Committee.

(b) A quorum at any meeting of the Committee shall be three members. *A member may fully participate in Committee proceedings by telephone.* No action shall be taken by the Committee in the absence of a quorum. *The vote of a majority of the members present shall constitute the action of the Committee.* [; BUT] *At any such meeting any matter may be considered by the members present without the taking of any action with respect thereto.*

Board Proposes Changes to Lawyers' Fund for Client Protection

The Board of Governors is proposing changes to the bar rules covering the Lawyers' Fund for Client Protection. Members should direct comments to the Alaska Bar Association office. (See above Rules 48 and 52).

Reciprocity Rule to be Changed

Alaska Bar Rule 2, section 2, which provides for admission to the Alaska Bar Association without bar examination (commonly called the reciprocity rule) will be amended effective January 15, 1991. The rule will provide that, to be eligible, an applicant must have taken a written bar exam in a reciprocal jurisdiction, and have engaged in the active practice of law for five of the seven years preceding application to the Alaska Bar Association.

The rule change ties the reciprocity provision into where the applicant took the bar exam. The "old" rule tied the reciprocity provision into where the applicant practiced law. Since many applicants practiced in several jurisdictions, some of which were reciprocal and some were not, it was sometimes difficult to determine whether an applicant qualified for admission under the rule.

Applications received before January 15, 1991 will be considered under the current rule. Applications received after January 15, 1991 will be considered under the rule as amended.

Proposed Bylaw Change on Lobbying

In light of the recent U.S. Supreme Court case in *Keller v. State Bar of California* which set limits on the political actions which may be taken by integrated bars, the Board of Governors is proposing the following bylaw change to clarify that the Alaska Bar Association does not engage in political activities.

Article X. Lobbying and Publicity.

[NEW]

Sec. 3. Purpose. No expenditure relating to political or ideological activities may be made by the Association unless reasonably incurred for the purpose of regulating the legal profession or improving the quality of legal services available to the people of the state. The Association may not publicly advocate nor allow its name to be used for the advancement of any cause unless such action directly relates to the authorized purposes stated in this section.

Comments should be directed to the Board of Governors, Alaska Bar Association, P.O. Box 100279, Anchorage, AK 99501.

Inactive Member Dues Increase Proposed

The Board of Governors is recommending an increase in the dues for inactive members of the Association. The proposed bylaw change is as follows:

Article III. Membership Fees and Penalties

Section 1. Annual Dues...

.....(b) Inactive Members. The annual membership fee for an inactive member is \$150.00 [\$75.00].

Comments should be directed to the Board of Governors, Alaska Bar Association, P.O. Box 100279, Anchorage, AK 99501.





THE CARTER FILES

By Mickale Carter

Continued from page 1

other organizations.

In 1977 Shea moved to Alaska and was an associate at Hartig, Rhodes, Norman, Mahoney & Edwards. He decided to move to Hawaii and in 1981 was a Deputy Prosecuting Attorney at the Office of Prosecuting Attorney in Honolulu. There he prosecuted major felonies. He returned to Alaska in 1982 and again associated with Hartig, Rhodes, Norman, Mahoney & Edwards where he became a partner in 1984. He went out on his own in 1988 to establish a civil litigation practice, forming a partnership with Edgar R. (Ted) Locke that same year. Active in the Alaska Bar Association, he has chaired the Tort Section and been on the Fee Arbitration Committee.

In 1984 and 1985 he was chair of the Prosecution Committee of the Anchorage Crime Commission. Presently he is on the Board of Directors of Crime Stoppers of Anchorage and the Anchorage Chapter of Alaskans for a Drug Free Youth.

The Job

Although he has been the United States Attorney for the District of Alaska for only about 10 weeks, Shea says he's been on the job long enough to have some sense of the magnitude of his new position.

As the United States Attorney for the District of Alaska he is responsible for the operations of the United States Attorney's Office. There are presently 10 Assistant U.S. Attorneys (AUSA) in the Anchorage office with one in the Fairbanks office.

In addition, there are several new AUSA positions for which he is presently interviewing applicants. In response to the newspaper announcements of these positions, Shea has received approximately 150 resumes and applications. Although he appreciates the high level of interest in the legal community, he notes that the selection process is made difficult by the high caliber of lawyers who have applied. There are many more qualified applicants than there are positions available.

Generally speaking, the AUSA's are divided into the Civil and the Criminal Divisions. This is "generally" because all AUSAs are prosecutors, although the Civil Division focuses primarily on civil matters.

In the Civil arena, the United States Attorney both defends the

United States, its agencies and employees against various claims, and brings affirmative actions on behalf of the agencies. In addition, he is responsible for the collection of both civil and criminal fines and judgments. There are four AUSAs assigned to the Civil Division, one of whom, Lynn Allingham, is assigned to handle commercial litigation. Sue Ellen Tatter is the Civil Division Chief. Larry Card and the world renown, highly regarded tort litigator, Mickale Carter, round out the Civil Division.

The claims against the United States, its agencies and its employees vary from allegations of medical malpractice of an Air Force surgeon at Elmendorf Air Force Base, to claims against the Bureau of Land Management for discrimination in hiring of firefighters, to allegations of negligent operation of earthmoving equipment by an Army enlisted person.

Affirmative actions vary from enforcement of contract actions seeking collection of delinquent student loans brought on behalf of the Department of Health and Human Services, to collection of back taxes and penalties brought on behalf of the IRS, to filing of claims in bankruptcy proceedings on behalf of various agencies.

The Criminal Division includes one AUSA assigned to the Organized Crime and Drug Enforcement Task Force (OCDETF), which is specially funded by the Department of Justice. Before his assignment to the Civil Division, Larry Card was the OCDETF AUSA; Suzanne Hayden filled this position starting in November. An experienced prosecutor, Hayden is formerly was an AUSA for the District of Nevada in Las Vegas.

The Criminal Division prosecutes violations of federal law. The prosecutions vary from bank robberies, to white collar crimes such as equity skimming and taking kick backs, to violation of federal statutes which protect marine mammals. Joe Bottini is the Chief of the Criminal Division, with AUSAs Crandon Randell, Mark Rosenbaum and Karen Loeffler assigned to the division.

Commander Ron Nelson of the Coast Guard is a Special AUSA who is assigned to the United States Attorney's Office. As a Special AUSA he can appear on behalf of the United States. However, he is employed by the Coast Guard. His assignment to the United States Attorney's Office is indica-

tive of the importance of the Coast Guard presence in Alaska. He works exclusively on enforcement of federal laws which regulate activities on the high seas, i.e., those regulations of which the Coast Guard is responsible for enforcing. Commander Nelson works closely with Tim Burgess, the asset forfeiture AUSA, on federal seizure of vessels, Burges' job is to enforce the federal asset forfeiture statute which allows for seizure and forfeiture of assets associated with the violation of certain federal laws.

Priorities

Shea sees his role as the U. S. Attorney for the District of Alaska as that of a facilitator of communication and cooperation among federal agencies, as well as federal, state and local law enforcement. He believes that it is his role to maintain open communications between his office and the federal agencies. It is his goal that each agency will receive the same attention as the most important client in the private sector.

Recognizing that the demands of the agencies are great and the resources of his office are limited, Shea says he will nonetheless endeavor to provide each agency the representation it deserves.

Perhaps highest on Shea's list of priorities is the establishment of cooperation between federal, state and local law enforcement agencies. The size of the state of Alaska, in conjunction with its relatively small population, make integration at the early stages of investigation essential to effective law enforcement. The federal, state and local agencies need to be able to rely upon and support each other.

In a letter to the Attorney General of the United States, Dick Thornburgh Shea stated:

"Alaska is unique. As a result, the role of the United States Attorney in Alaska and the Department of Justice in Alaska is also unique. Due to Alaska's strategic location, its isolation, its vast size, and the relatively small population, it is extremely important for the United States Attorney to have a very close working relationship with the Department of Justice, federal

agencies and federal, state, and local and private law enforcement."

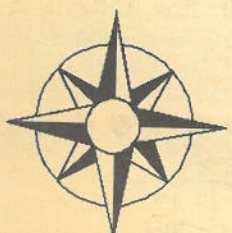
Shea was strongly in favor of the November recriminalization of marijuana ballot proposition. He grounds his position upon studies which show that marijuana today is far more powerful than it was in 1975 when the *Ravin* case was decided. He notes that the American Bar Association in February, 1990, found that the THC content in marijuana now averages 3.5 percent, up from 0.5 percent in 1974. In addition, samples of THC are as high as 12 percent. In fact, according to Joe Schulte, Special Agent in Charge of the FBI in Alaska, and Fred Thomas, Special Agent in Charge of the DEA in Alaska, THC content as high as 15.8 percent has been found in marijuana seized in Alaska. This is the second highest THC content on record.

Shea believes that the first step in discouraging the use of marijuana in youth is to convince their parents who have used marijuana in the past that marijuana is a threat to their health and the future of their children. The parent's use of marijuana in the home certainly results in substantially increased use by their children. Shea believes that the recriminalization of marijuana will send a strong message to the youth of Alaska that marijuana is not a harmless drug.

Notice to Prospective Bar Exam Applicants and Reapplicants

The fees to take the Alaska Bar Examination will be changed effective with the July 1991 bar exam. The exam fee for a first time applicant will be \$700.00 and the fee for a reapplicant will be \$400.00.

A reapplicant is defined as a applicant who has taken the Alaska bar exam within one year. If it has been more than a year since an applicant has taken the exam, he or she must pay the same fee as a first time applicant.



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• Take a candidate to lunch

Continued from page 1

difference. Their backyard food and clothes boxes are two examples of the personal touch. Persons in need are free to help themselves to whatever is there.

O'Callaghan has been a free-thinker and an innovator; the Municipality of Anchorage has implemented at least one of his ideas: FLASH.

Anchorage drivers, recall seeing yellow lights flashing on main streets late in the evenings? FLASH at work. Freedom Lacking At Signals Here was Mike's idea directed to substantially reduce stop-start pollution.

While President Bush ponders his signing of the Clean Air Act of 1990, O'Callaghan has been brewing more clean air ideas. His favorite is RUSS: RUsh Signal System. This system requires that all traffic lights should remain green

for seven consecutive minutes in an east-west direction thereby allowing someone to drive to a destination without stop for at least seven minutes; then all the lights would turn green in a north-south direction for seven minutes while east-west traffic is at a standstill. This synchronization would happen for the morning and evening rush hours. For those persons standing still, seven minutes could be used to turn off the car and read or to write that grocery list.

Although the clean air is a focal point for Mike, he and his wife have turned their attention to the legal environment as well. They were involved in forming the Political Party.

"The United States Constitution is a well-planned garden" says Lydia Darby-O'Callaghan. "It has become an overgrown garden and the

Political Party wants to give people access back to that wellplanned garden."

How does one find the way back to the garden? Village meetings, of course. Groups of twelve or more persons have been meeting around Anchorage to raise issues. All participants must listen to all of the others. No arguing. Issues are next clarified. Then sharing of the ideas is developed and action plans result as the village meeting closes.

Whether it's cleaning the air or dumpster diving or starting a political party, the common denominator for all of the O'Callaghan projects is the individual responsibility to initiate changes.

For many of those who aspire to change things, a part of life's journey leads through the courthouse door. O'Callaghan, acting as his own attorney, recently took to task

the State of Alaska Division of Elections in Superior Court on the issue of allowing an allegedly disqualified candidate to keep his name on the ballot at the general election. He argued his own case against his opposing counsel, none other than Mr. Edgar Paul Boyko, and won compliments from the veteran attorney.

I came away from my evening with the O'Callaghans believing that these passionate individuals were leaving their benevolent mark on Alaska cleaning our air, feeding our people, and challenging our legal system to live up to its potential.

The new governor should invite them to lunch.

• Letters

Continued from page 3

come a regular feature in the Review and will, of course, be in the June 1991 issue.

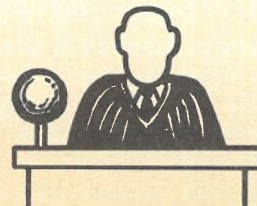
A sample of topics of student notes currently being researched and written for possible publication in the June 1991 and December 1991 issue include: Alaska Civil Rule 90.3 (child support guidelines), conspiracy, domestic violence, liability under the Dram Shop law, employer liability for sexual offenses committed by employees in connection with their employment, equal protection under the Alaska constitution, me-

chanics' liens in the context of bankruptcy or insolvency, presumptive sentencing, subsistence and Alaska's Tort Reform Act.

If you have any questions or comments regarding how the Review is doing or any ideas for articles or notes, please feel free to write or call:

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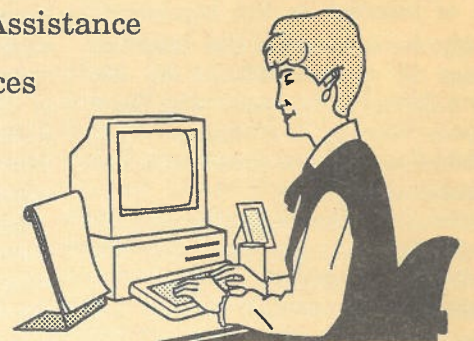
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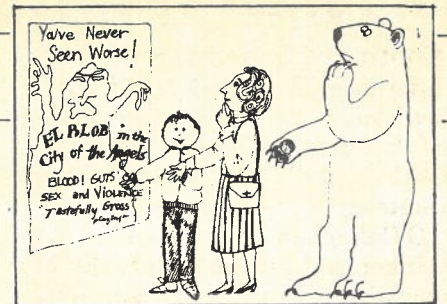
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MOVIE MOUTHPIECE

By Ed Reasor



Breathes there a soul so dead who has never found himself the hero of the movies?

Haven't you been the intense, poor but dedicated public defender ousting some rich district attorney who wants to railroad your client into the governor's chair?

Haven't you ever been the dashing young woman sidekick of a hopeless adventurer, an honest man who only needs one thing to complete his happiness — you, the honest, understanding woman? Most moviegoers have, and that is part and parcel of the enduring quality of this generation's art form.

On occasion, however, a movie is less hero worship and more nostalgic history. Such a film is now making the rounds in Alaska. Warner Brothers' **MEMPHIS BELLE** adequately captures the spirit of a forgotten era, World War II and American bomber pilots.

We Alaskans are lucky to have some of these relics around as present day judges and hearing officers. Their viewpoints of **MEMPHIS BELLE** match mine — that this film is a clean, personal remembrance of several men and several missions, reasonably accurate, well written (if a bit long), all combined into a believable story line of a courageous crew on their last mission before being rotated home to participate in a recruiting drive.

The film's emphasis is on the B-17 bomber, the Flying Fortress, and well should it be. Only a few minutes of actual black and white combat scenes are interwoven in **MEMPHIS BELLE**, but the contrast — the modern medium and close colored shots of this gigantic bird in the sky with real seek and destroy shots of enemy fighter planes trying to break up the formation, photographed over Germany during the war, is well worth the price of admission.

The walls of the B-17 were in fact thin. That's one of the reasons a crew was allowed to rotate after 25 missions. Another reason was that the crew itself was just out of its teens and one of three would not make it home. In narrow, metal airborne fuselages, they fought not only Nazi fighters but freezing cold, anti-aircraft guns, themselves (hopelessly inexperienced pilots) all in a slow moving, large, vulnerable aircraft.

Old pilots tell me that the B-17 was designed by Boeing and flown around the Seattle area before the war. It had four powerful engines, all of which were needed most of the time to propel its 103 foot wingspan, 75 foot long, heavy (30 tons when loaded with bombs) carriage down a long runway and into the air. Once airborne the B-17 flew twice the distance of any other plane without refueling. Standard crews during the war consisted of a pilot, a co-pilot, radio operator, navigator, ball-turret gunner (in a small sphere located underside of the fuselage), bombardier, tail gunner, waist gunners (a two man operation, one firing from the left and the other from the right side of the plane) and a flight engineer. In



Champagne corks pop after the brave young crew of a B17 bomber during World War II celebrate their return in Warner Bros. **MEMPHIS BELLE**, a current hit at the box office, which incidentally, Anchorage Mayor Tom Fink went to see (and enjoyed) before the votes came in during the October Mayor's race. (Politicians lurk everywhere in Alaska).

MEMPHIS BELLE, the actors visually are a real B-17 crew.

Matthew Modine ("Married To The Mob") plays the serious minded pilot, who is worried that the last mission before rotation could cause the crew to become careless or even worse, too concerned about themselves that they fail to do the job.

Eric Stoltz ("Mask") plays an idealistic Irish-American radio operator. In my view his acting is the best in the film, and his reading aloud of Keats' poetry (which he passes off as his own) beside an airfield in England is extremely poignant. If I were watching this film on VHS, I would back it up at least twice to hear the lines again.

Sean Astin plays "Rascal" Moore, a teenage ball-turret gunner with loud noises of bravado accompanied by a look of always being on the make.

Harry Connick, Jr. plays Clay Bussy, a young tail gunner, but it would be safe to say that Connick, who in real life is a singer and pianist, plays himself. Entertaining sequences of the film are medium and close shots of Connick singing "Danny Boy" at a USO gathering. Any ex-G.I. can tell you that there is always one guy in any military group who can sing as well as anyone you hear on radio, record or tape. Connick won a gold record for his soundtrack of that hilarious film "When Harry Met Sally."

Reed Edward Diamond makes his picture debut in **MEMPHIS BELLE** as a top turret gunner, doubling as a knowledgeable flight engineer. He is even-paced and calm in this film, thanks to his drama training at Juilliard.

Tate Donovan plays the copilot, an ambitious man who can't wait to become famous with the help of Life Magazine and the forthcoming bond drive. We had astronauts like

that in the late 50's.

D.B. Sweeney as Phil Rosenthal, the navigator, and Billy Zane as bombardier round out the crew.

John Lithgow plays Colonel Bruce Derringer, the public relations officer assigned the task of making the **MEMPHIS BELLE** and its crew famous.

The contrast in military styles between Lithgow, a reserve officer who understands advertising and the media and David Strathairn, who portrays a regular officer in command of the base in England is interesting, fascinating but quite

and Strathairn. Most of us veterans have served under both types men.

Here are some of the better film techniques and shots of **MEMPHIS BELLE** at the hands of director Michael Caton-Jones:

- The very opening shot, 1943, dark to light and the only sound is the wind, then white to clouds and touch football. What symbols would tell you more about young American men getting ready for a dangerous mission?

- The use of voice-over to introduce the crew we will be following



Harry Connick, Jr., as Clay; Reed Edward Diamond as Virge; Neil Giuntoli as Jack; Sean Astin as Rascal and Billy Zane as Val while away the time waiting for orders to take off on a crucial bombing mission in Warner Bros. **MEMPHIS BELLE**, the story of the brave young crew of a B17 bomber during World War II ("we're falling in love with you," Harry Branson would add).

true. Both men had a different job to do during the war — one to send daily bombers deep into Germany and the other to publicize just one such crew and one plane to Americans back home so that they would buy thousands of dollars in war bonds to keep the effort going. No Hollywood casting director could have picked better than Lithgow

during the 25th and last mission of the **MEMPHIS BELLE** while the football game continues. All are young, innocent, clean-shaven, eager, and yet all are different; one is religious, one is from a small town, one is a graduate of a reform school, one is a farmer's son, and

Continued on page 15

THE NEW JUDGES

Mannheimer finds way to appellate court

BY DREW PETERSON

David Mannheimer has come a long way since the day in 1974 that he walked into the Fairbanks DA's office to start his first attorney job, only to discover that no one was expecting him.

More recently, he was appointed by Gov. Steve Cowper to fill the vacancy on the Alaska Court of Appeals created by the Hon. James Singleton's resignation to become a United States district court judge.

Mannheimer is leaving his current position as head of the Office of Special Prosecutions and Appeals (OSPA) effective Nov. 15 (his replacement is long-time OSPA attorney Cynthia Hora). Mannheimer will be sworn in to his new job in December or early January.

Superior Court Judge Peter Michalski, Mannheimer's former boss at OSPA, remembers him looking pretty lost and forlorn on the day of his arrival in the Fairbanks office in 1974. Mannheimer recalls that he was in his driveway in California, loading the moving van, when he was called by the Department of Law. He had been hired to work in Juneau, which he and his wife had visited, but the promised job had evaporated. He was given a choice between a six month temporary job in Juneau, revising the traffic code, or the District Attorney's job in Fairbanks. Six months of traffic court seemed unbearable, so the Fairbanks choice was made, sight unseen.

Upon arriving in Fairbanks, Mannheimer and his wife, Carol Moonie, checked into the Sullivan Hotel, then a local slum establishment. (Mannheimer remembers that there was mold growing in the refrigerator). Luckily, his wife was not along to view his reception at the DA's office the next morning. Eventually, the office did figure out who he was and what he was doing there. They assigned him his first case, a criminal appeal.

Mannheimer remained with the D.A.'s office from 1974 to 1976, handling primarily misdemeanor trials and appeals. From 1976 to 1978 he was in the Fairbanks Attorney General's office, handling general civil matters: everything from child support to juvenile cases to wage claims to state trespass matters. He enjoyed the work better than that at the DA's office, where he often felt ill-prepared to prosecute misdemeanors when files were first given to him on the day before trial.

Lionizing the court of appeals

This is the story that David Mannheimer told Steve Hutchings in junior high school. It made quite an impression on young Hutchings. Mannheimer denies any recollection of the incident:

It seems that the zookeepers were having a difficult time with Elsa, their aging lion, who had a toothache.

Numerous attempts to tranquilize her were unsuccessful, as she paced her cage in agony. Finally a young animal psychologist on the staff suggested that they pump calming music into Elsa's cage to settle her down.

The plan worked, and the tooth was extracted successfully.

The case was later written up in veterinary journals as the first successful example of medical air to the caged.

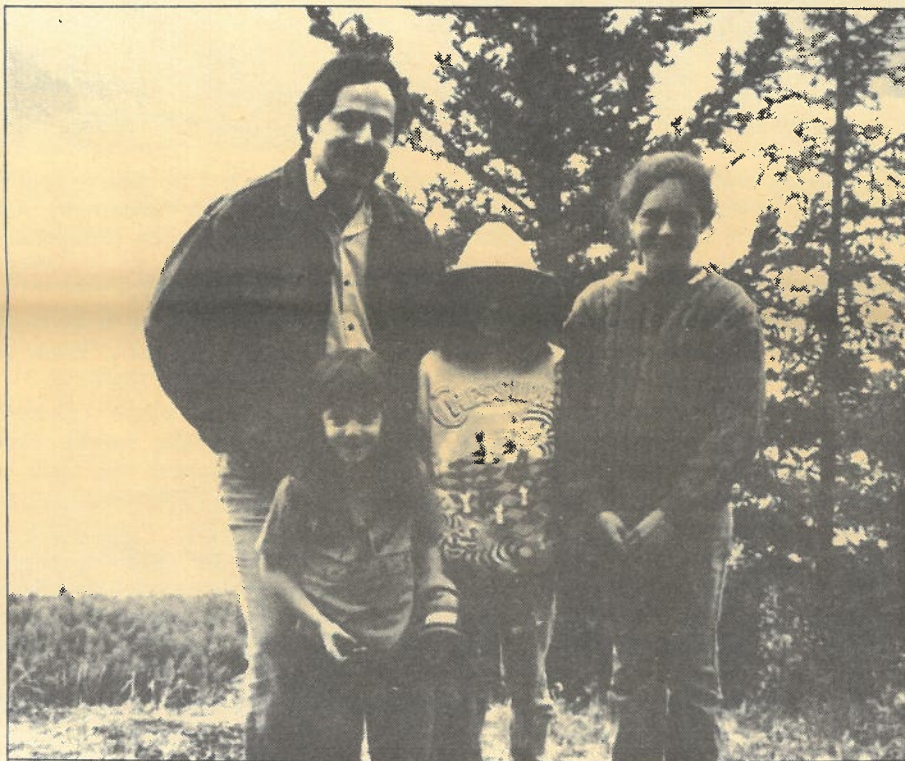
(Counsel in proceedings before the Alaska Court of Appeals are advised to include similar puns in their briefs at their own risk).

In 1978 his friend and former co-worker Peter Michalski convinced Mannheimer to move to Anchorage to join OSPA, where he has remained since. He became the head of the office when Michalski was appointed to the superior court bench in 1985.

Mannheimer grew up in Des Moines, Iowa. Attorney Steve Hutchings of Birch, Horton, Bittner and Cherot, who went to junior

being extraordinarily smart.

Hutchings also remembers the non-studious side of Mannheimer. Mannheimer told him his first pun, in about 7th or 8th grade (see accompanying story). Even at an early age Mannheimer had a well-developed, if intellectual, sense of humor. Hutchings also remembers the day in high school that Mannheimer received the dreaded Form 13, a disciplinary measure



Judge David Mannheimer relaxes with his daughters, (left to right), Rachel, 5; Sara, 9; and Katie, 11.

high school with him, remembers Mannheimer as being "simply the smartest kid who was or had ever been in any of his classes." He had dual 600s on the boards and was the school intellect.

Despite his brains, however, Hutchings says that Mannheimer was not a geek. In a school system that emphasized academics, Mannheimer simply stood out as

one step short of suspension. Mannheimer received the Form 13 in his Drivers Education class, of all places.

As a result of his academic success, Mannheimer graduated from high school a full year before his classmates and entered Stanford, from which he graduated in 1970. During the following year, before entering law school at U.C. Berke-

ley, Mannheimer spent a year pursuing his other love, the love of music. While Hutchings tells of a best selling record, Mannheimer asserts that he could never figure out how to make a living at music, although he did play professionally, mostly in folk groups. His original instruments were the guitar and mandolin. In recent years he has concentrated on the fiddle and playing blue-grass music. Music remains a big part of his life, although he no longer plays professionally.

Mannheimer is also very much involved in the lives of his three daughters, Kate, age 11, Sara, age 9, and Rachael, almost 6. All three attend an optional elementary school program which requires substantial parental involvement. Mannheimer teaches math on a regular basis to daughter Kate's class. For Rachael's kindergarten class, he teaches and performs music, along with the former Alaska Bar Association President Jeff Feldman. Other activities consuming Mannheimer's time and interest include the Oriental game of Go, computers, cooking (Peter Michalski says that Mannheimer bakes a mean loaf of bread) and reading (mostly history).

Mannheimer has had substantial trial experience at OSPA, notably with white-collar criminal matters. He particularly recalls a two-month insurance fraud case that he tried a few years ago, along with colleague Bob Bundy. Mannheimer speaks of the excitement of trial preparation and being consumed by the case for weeks on end. During the trial he barely saw his family and yet he felt the emotional and intellectual attraction of intense trial work. Thereafter, he was more conscious of his choice to not seek out such work, and yet also more aware of its excitement. He enjoyed trial work more than he had even thought possible prior to the experience.

Mannheimer enjoys appeals as well, particularly for their intellectual stimulation. He also enjoys the pace of appellate practice, which is much slower than a trial practice, and thus better for planning. He appreciates the time that allows him to spend time with his family and other activities.

Mannheimer was asked about the impact of his current job on his initial service on the bench. He states that at the present time, OSPA has about 200 cases awaiting argument before the Court of Appeals. The court processes about 450 per year. The majority of OSPA's cases, however, involve felony appeals, so the impact is even greater than might at first appear from the numbers. Thus Mannheimer states that he expects to be put to work in other courts for awhile, to get some trial experience, while the Court of Appeals processes those cases with which he has been involved.

While admitting that he wishes he had some direct criminal defense experience, Mannheimer believes that he will not have a prosecutorial bias on the bench. He believes that he has had the ability at OSPA to understand the other side

Pengilly is new Fairbanks judge

Gov. Steve Cowper has appointed Fairbanks public defender Charles (Chuck) Pengilly as Fairbanks District Court judge, replacing Chris Zimmerman, who retired.

Pengilly, 42, is a nine-year Alaska resident and was one of three candidates for the post nominated by the Alaska Judicial Council. The other candidates were Teresa Foster Brimmer, a Fairbanks attorney in private practice, and assistant attorney general Raymond Funk.

"Chuck has a wide range of experience as an attorney," Cowper said. "He's worked for both the public and private sectors and is an experienced trial lawyer. He's handled cases ranging from criminal felonies to product liability, and he has experience teaching trial law practice. Chuck will be an excellent judge for Fairbanks."

Pengilly served in the U.S. Air Force Reserves for six years and also has worked as a cook, carpenter, and commercial printer. He instructed English at the University of California-Davis from 1973 to 1977 before entering law school at

the University of California-Berkeley where he graduated in 1980. Pengilly served as an intern in 1979 and law clerk in 1981 to Alaska Supreme Court Chief Justice Jay Rabinowitz.

He has been in both general commercial private practice and worked as a public defender while in Fairbanks.

Pengilly is a member of the California, American and Alaska bar associations and is a cycling enthusiast. He is married and has one son.

Continued on page 12

THE NEW JUDGES

Judge Zervos: A peloponnesian paradox

BY ART ROBSON

When Governor Steve Cowper appointed District Court Judge, Larry C. Zervos to the Superior Court bench in Sitka, he was balancing out his place in history (after the budget vetoes last June). Larry is already used to dividing his time between Superior Court and District Court tasks, and Greek folks already use the Cyrillic alphabet, which has long mystified Sitkans who try to keep up with their Russian ancestors.

Actually, it was Larry's grandparents who came from Greece. Specifically, a small town in the vicinity of Sparta. Larry's dad was a first generation Greek-American, who happened to be passing through Ventura, California in 1946 along with Larry's mother (English, rather than Greek background). And, while they were there, Larry entered this world. His folks immediately saw the error of their ways and returned to Toledo, Ohio from whence they had come. There they lived outside a small town, working a farm, but mostly earning a living by working in town.

Larry had the advantage of growing up in a Norman Rockwell sort of small town with animals all over the place and a Mark Twain sort of existence. In the interview for this article, he denied having any bizarre problems, which probably means that whatever he got into isn't the sort of thing one should talk about.

In any event, to show that he had a well regulated life, in 1958 his folks departed Toledo in a 1949 Pontiac, thence driving to Tucson, Arizona. Larry, being of the excitable age at the time, abandoned ship at Tucson because the Cleveland Indians had a training camp there, and next to the Toledo Mud Cats, the Indians were his "favorite" team in the whole world.

Since his parents were actually going to Las Vegas, Larry followed them a short while later and managed to make the 1949 Pontiac into a desert bomb, thus enriching his childhood and scaring the living devil out of thousands of miscellaneous ground squirrels, rattlesnakes, etc.

Judge Zervos finished the conventional phase of his career while in Las Vegas going to high school, and even starting out at the University of New Mexico. Your average Alaskan has to have a great deal of sympathy for someone who spent his formative years trying to ignore hundreds of nearly nude showgirls, so that he could lead a conventional life.

In any event, in 1965, the 1949 Pontiac and Larry's desert tolerance gave out simultaneously. He determined to attend the University of Alaska at Fairbanks as being the furthest thing from his hitherto conventional life in an unconventional setting. This brought about another year and a half of exotic living in Fairbanks, in an old house at the corner of College and Farmer's Loop, where there was no water to turn on, or flush. Together with two roommates, the future jurist opened a submarine sandwich

shop which functioned more or less regularly, or at least when any of the three of them were there. They had to take their dishes to various college dorms and into the shower, to wash them, and with three different souls taking a load of dishes to a limited number of dormitories, a rather sophisticated rotation schedule had to be developed to avoid detection. One of the Judge's first bursts of administrative ingenuity was the design of the schedule. His greatest memory of this period doesn't concern drinking in the fruits of the learning life, but rather of the old combustion toilet. Said conveniences, regrettably, may process the mess, but do not set aside the odor!

produced crops. In point of fact, by working out a compromise between suggested United States construction plans and the local thatched hut crew, they built a school and did a number of other enterprising things.

When 1970 rolled around, there were three young men mustered out of the Peace Corps in Costa Rica. They purchased three 1970 Triumph motorcycles and set out in a rather aimless fashion to drive the Pan American Highway to Las Vegas. Somehow the motorcycle commercial, which implies that getting there is more than half the fun, manifested itself, and it took a little over five months for our three heroes to make it to Las Vegas. All

people and lots of hope, but no jobs, and no money.

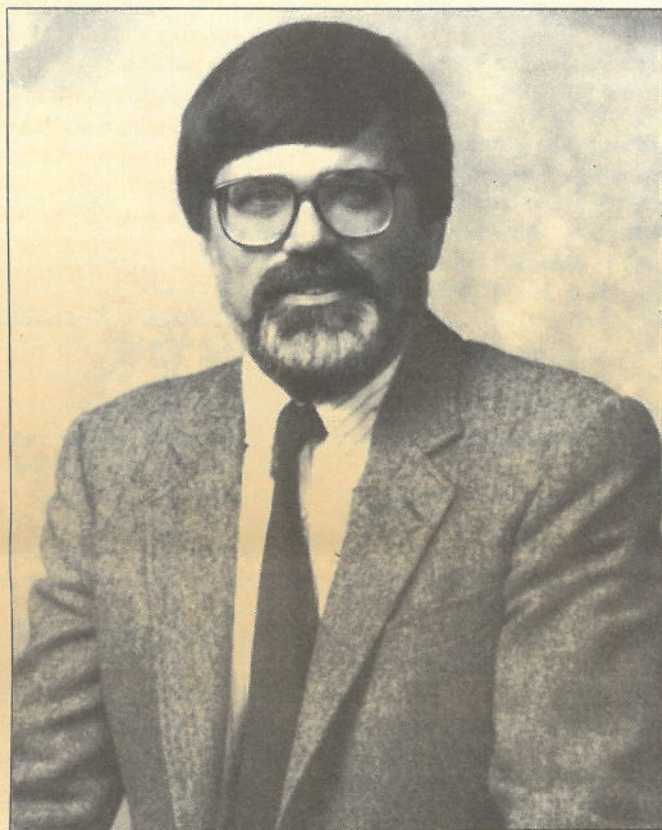
As he broadened his base of friends in Fairbanks, Larry got to know a few people who worked for Alaska International Air. One day he got a telephone call explaining that there was a Hercules aircraft that had been less than successful in landing at Ice Island T-3. The University (which ran the ice island) needed someone as a "roustabout" (read as flunky) to go along with the mechanics, scientists, and others who were floating about the Arctic Ocean while trying to figure out what influenced their lives and ours. The stipulation was that he was to arrive at the airport within 20 minutes to get on a departing plane. At this point in his life, Honorable Larry developed the ability to make quick decisions. He determined that telling his boss, roommates, landlord, etc., was a needless waste of time. He streaked for the airport, gave his car keys to someone (who promised to do something or other) and jumped on the last plane to Ice Island T-3 for six months.

Of all the educational phases of Larry's life, this was probably the least repeatable one. For folks on T-3, the honeybucket was actually a fifty-five gallon drum, and for the only flunky who had the duty of emptying these things, it became necessary to find a way to keep the drum from freezing over the top (which they tended to do) before they were full. The longer you could make them last, the less often you had to empty them. When our hero finally mastered this science, he was allowed to begin working on putting the wing, which had fallen off the Hercules airplane, back on it, or at least to pass the tools to those who were doing this. Finally, the wing was back on the airplane, the ice froze more or less solid, and to the surprise of everyone the plane carried a few folks back to Fairbanks, thereby greatly enriching Interior Airways (the insurance company had paid off thinking the plane was a total loss). Larry was now an enterprising Interior Airways flunky. And, the pipeline finally started.

Demonstrating the great orientational ability of a future judge, Larry began to spin his wheels trying to get to work on the pipeline so that he could get rich. He finally landed a job with Bechtel, being an instructor in "environment." This was a matter of telling people to wear their bunny boots even when they didn't want to, and was very frustrating because the people he was instructing were making really big money. As a result, Zervos decided to make another career change, this one back to going to law school.

While the honorable one was on T-3, they received their food, mail, etc., by airdrop. Someone had sent Larry a lovely care package with Playboy magazines, home-cooked goodies and (of all things) a bottle of very good scotch. This particular airdrop happened to be one where the parachute didn't work. As a result, parcel post wound up hitting the ice at a rather high speed.

Continued on page 10



Judge Larry Zervos

Returning to Las Vegas in 1967 was really a matter of following the lines of least resistance, since our future jurist had rather tired of school. However, upon returning to his Las Vegas home, he found a draft notice waiting for him. It is sometimes amazing how the history of a human being can be altered by such a single event. Having turned the fires of an unquenchable thirst for knowledge up to full heat, Larry raced over to the University of Nevada at Las Vegas (the Running Rebels) and got serious.

The result of this seriousness ran out in 1969 when the young Zervos ran out of courses to take and graduated. Since he remembered both that he was sick of school and, that he didn't really want to be drafted, Larry joined the Peace Corps. The United States government immediately sensed that it had a future jurist on their hands and trained him thoroughly in how to grow both corn and beans. They then shipped him to Costa Rica where neither corn nor beans were commonly grown (they were imported from Nicaragua and Texas in those days). There our fair lad of Spartan descent set forth to train a couple of very rural, unsophisticated Costa Rican communities in the raising of corn and beans. Surprisingly enough, they actually

of this proves the point that the eldest child is always goal oriented, and, Larry was the eldest child in the Zervos family.

Looking around after arriving in Las Vegas convinced the itinerant motorcyclist that he should embark on gainful employment in order to eat. He therefore went to work as a social worker. This training has proved immensely valuable in dealing with the Court system administration. It proved valuable in another way because during his social worker phase, Zervos met a young lady who would, in a moment of weakness, become his wife! They briefly were office mates, however, neither of them made much of an impression on each other at the time.

Truth coming, as it does to all men, to Larry Zervos in 1973, he decided that he was not making enough money to be able to go to law school (or anything else that might be fun) so he bought a Volkswagen and drove back to Alaska. This time he was clearly motivated. He was going to get rich and then do something, such as go to law school. Well, life being what it is and motivations being rather subtle influences at best, the only job which Judge Zervos could find was washing mobile homes at \$2.50 an hour. It was still the pre-pipeline Fairbanks, where there were lots of

THE NEW JUDGES

Bankruptcy court

New judge initiates districtwide reporting

BY JAMILIA A. GEORGE

On July 24, 1990, Donald MacDonald IV was sworn in as the second Bankruptcy Judge for the District of Alaska. Born and raised in Fairbanks, he moved to Montana in 1960 where he attended high school and college. Having received his juris doctorate from the University of Montana School of Law in 1974, he spent one year clerking for U.S. District Court Judge Russell E. Smith before joining the Missoula County Attorney's Office.

MacDonald has spent the past 14 years in private practice. During that time, he served as Bankruptcy Trustee for Missoula and Kalispell Montana from 1980-1986 while also teaching bankruptcy law at the University of Montana School of Law for four years. The following is a candid interview with one of the youngest Bankruptcy Judges to be appointed in the country.

Is the way bankruptcy law practiced changing nationally?

"I don't think so. You would have to go to New York or Los Angeles to answer that. Emphasis on bankruptcy law has grown substantially in the last few years. There seem to be more nationally recognized bankruptcy experts. From what I've seen, Alaska practitioners more than measure up."

Are there any "hot" issues locally?

"All current issues will be addressed in the *Alaska Bankruptcy Reports*, a new reporter which should begin publication soon. No one issue yet has dominated my caseload. Obviously, the 'stripdown' issue is an interesting one, but I haven't had one yet. I've seen a lot of tax issues and disputes here. Also, fishing is a major industry here so I have had to apply admiralty law. You wouldn't see that in Montana."

Could you make a brief assessment of the impact and effectiveness of the United States Trustee system?

"In Alaska, I think it fills some gaps that needed serious attention. An example would be fee applications; someone should scrutinize those. Secondly, bad faith filings. And third, cases that might slip through the cracks because of inattention from creditors are now dealt with. They're (U.S. Trustee Office) understaffed here. They have more staff in Montana — an Assistant U.S. Trustee, attorney advisor, paralegals and bankruptcy analysts. Here they're not fully funded. It's a problem that I believe inhibits their ability to perform to capacity."

If you could change only one thing about the way Congress wrote the Bankruptcy Code and Rules, what one thing would it be?

"Provide a Chapter 14 reorganization for small businesses similar to Chapters 12 and 13. Raise the threshold requirements so that small business wouldn't necessarily have to go through a total Chapter 11. There is a need for small business reorganization short of the full blown requirements and expenses of Chapter 11. There should be some kind of intermediate reorganization chapter for small busi-

nesses."

Speaking of rules, any idea when this district will adopt new local rules of procedure?

"There's a Rules Committee meeting in December. Part of the reason the court has held off was a desire for me to familiarize myself with local rules and analyze additional changes as appropriate. I expect it to move quickly, perhaps as early as this winter or early spring. Winter's are long here, though, aren't they?"

You've been on the bench for four months now. Can you compare Alaska's economy with what you know about Montana and the Lower 48?

"Ninety-nine percent of my experience is based on Montana, but I would say that Alaska's economy is much more vibrant, but also much more dependant on one commodity, oil. In Montana, we had agriculture, wood products and do have some oil and gas but not as much as compared to Alaska."

How do you want to be remembered as a judge?

"Someone who got things done. My goal is to get a lot of business done at a very high level of competence and raise the level of practice a notch or two."

What impresses you most in an attorney who appears before you?

"Someone well-prepared and concise in their arguments, who understands what the real substantive issues are and doesn't get sidetracked."

What impresses you the least?
"Someone who is unnecessarily contentious over insignificant issues and who is poorly prepared."

Some people believe that rules are made to be strictly construed and others believe in a liberal application. Of which persuasion do you consider yourself and why.

"Overall I believe in the fundamental policy considerations underlying the Code. Fresh start is one of those. Giving the debtor a reasonable ability to reorganize in a reorganizational chapter is another. I believe in following the requirements of the Bankruptcy Code, but overall, not in an uncompromisingly harsh manner. Particularly when the underlying policies of the Code are not served."

Assuming you will be in a position to enact change in this district, what types of changes would you bring and why?

"The first thing will be the establishment of a statewide bankruptcy reporter, *Alaska Bankruptcy Reports* *** Second, improving the turn around time and giving litigants prompt service. Third, providing a better forum for negotiated settlements."

How important are negotiation skills to a judge compared to a lawyer?

"They probably are more important. A judge has the ability to point people in the right direction. Judge (Herb) Ross and I believe very much in the negotiation process and make a concerted effort to make ourselves available for settlement conferences for each others cases."

I am told by some very credible sources that you are a man of great humor. Can you elaborate?

"I don't know the bar here well so I've restrained myself. Oftentimes the court proceedings become very stressful for attorneys and their clients. Sometimes, just a little bit of humor will ease that burden considerably."

What does Don MacDonald do when he's not being a bankruptcy judge?

"My wife Nancy and I have two children, Michael is eight and Kimberly is five so I'm forever going to hockey, ballet, tai quon do, gymnastics, the usual kid stuff. We like to ski so I'm looking forward to Alyeska. I love to water ski. We have a cabin on Flathead Lake in Montana and hope to get down there this summer. I play the guitar."

Speaking of the guitar, rumor has it you would have become another "Jimmy Buffet" if you hadn't gone to law school.

"Who wrote these questions? Buffet's not dear to me because I had to listen to "wasted away again in Margarittaville" constantly while on a sailboat caught in the middle of a storm. An Alaskan storm front came across Flathead Lake in Montana one summer. Everyone was seasick and I was trying to save the

sailboat from going on the rocks when all the while "changes in latitudes" kept blaring from the speakers. I lost affection for Buffet after that. It is true I played in several rock and roll bands while in college and law school."

What's the best advice you can give to someone contemplating limiting their practice to bankruptcy law?

"I think they should be conservative in moving from a general practice to a bankruptcy practice because of the roller coaster that we find both in Alaska and the national economies. It appears now that Alaska's economy is improving and filings are going down. On the other hand, the Eastern seaboard and elsewhere are experiencing something akin to what Alaska has experienced over the past several years. I guess I'd tell them to be cautious. If oil is going to stay high, it might not be a good time."

*** Selected bankruptcy opinions for this district will be published monthly by Frank Adams of Montana Law Week. The new publication will be called *Alaska Bankruptcy Reports*, scheduled to begin in November, 1990. Information regarding the publication can be obtained from Mr. Adams at 515 N. Sanders, Helena, Montana 59601 or by calling him at (406) 443-5312 or toll free 800-955-7295.

• Zervos paradox

Continued from page 9

Larry, being a bit slow in crossing the ice, arrived to find several of his island mates licking scotch off the ice. The scotch also eradicated the return address, and so it wasn't until he took a vacation trip back home that he learned that Karla had sent the package to him. This sort of thing definitely caught his imagination and when she visited him in the fall of 1974, she assisted in his decision to change careers, and started being of assistance by helping him drive to the University of Puget Sound. One thing led to another, which led to something entirely different altogether, and so they got married on the way! It should be noted that since Karla stepped firmly into the picture, there have been no more career changes, just changes in career direction.

Fresh out of law school in 1977, the Zervoses went to New York City where Larry began practice with a white-collar criminal law firm. Karla took her Master's while all this was going on, but neither New York City nor white-collar crime seemed to be the route to go.

1978 found the Zervoses in Fairbanks with the idea being to practice law, but with emphasis on getting rich. The only thing constant is change, and trying to get rich at the practice of law in Fairbanks has always followed traditional lines. First work for the State, then get out in private practice, then form a partnership with a friend (Chris Zimmerman), then buy an aged, sinking building near the courthouse and try to survive in it, then your partner takes the bench

leaving you with all the clients, then resentment builds and you abandon all to take the bench yourself. This course is as old as history.

For a young man with Spartan ideals ("come back with your shield or on it"),¹ Larry has come a long way. Once able to find his way through desert sand dunes unerringly, he has managed to become lost while cross-country skiing so that the military air rescue team had to come haul him back home. Once wanting to get rich, now satisfied to service the judicial needs of Southeastern Alaska, preferably from his own yacht if he could get away with it!

The overall picture is bound to be a bright one for Sitka. Someone who has done most things that can be done, can make up his mind quickly, and has a very bright and intense intellect, Larry will not be a neophyte. He has handled a great deal of Superior Court work here in Fairbanks. We in Fairbanks feel not only respect but genuine affection for a man who is always ready to do a little more, to help out. He could have gone through the chairs and been president of the Tanana Valley Bar Association, but instead, he'll be a Superior Court Judge in Sitka. In Fairbanks, we may view this as a waste of talent, but you folks in Southeast are due for a good break. After all, something has to make up for your weather!

¹The Spartans were the original masochists. They invented the military draft. Historically, when a lad left to fight for dear old Sparta, his mother shouted this farewell. It means "fight hard and come back alive or be carried back as a dead (or mutilated) hero."

THE NEW JUDGES

Weeks gets First District Superior Court bench

BY THOMAS E. WAGNER

The department of law's chief prosecutor, Larry Weeks, culminated his 16-year career as an advocate by being sworn in as a superior court judge on Sept. 25.

Supreme Court Justice Allen Compton presided over the standing-room-only ceremony in Juneau's Dimond Courthouse. Friends and well-wishers heard remarks from Justice Compton, Superior Court Judge Walter Carpeneti, presiding Superior Court Judge Thomas Schulz, District Court Judge Peter Froehlich, former Attorney General Hal Brown and Juneau Bar Association president Susan Cox.

Weeks, 47, was appointed by Gov. Steve Cowper in August to replace retiring Judge Rodger Pegues. He was in charge of the Criminal Division of the Department of Law since 1987. Before that, he was in private practice (5 years), was a district attorney in Anchorage (3 years) and in Juneau (4 years). Before becoming a prosecutor, he clerked for the superior court in Anchorage and worked for the Attorney General's office there. He is a 1972 graduate of the University of Illinois Law School.

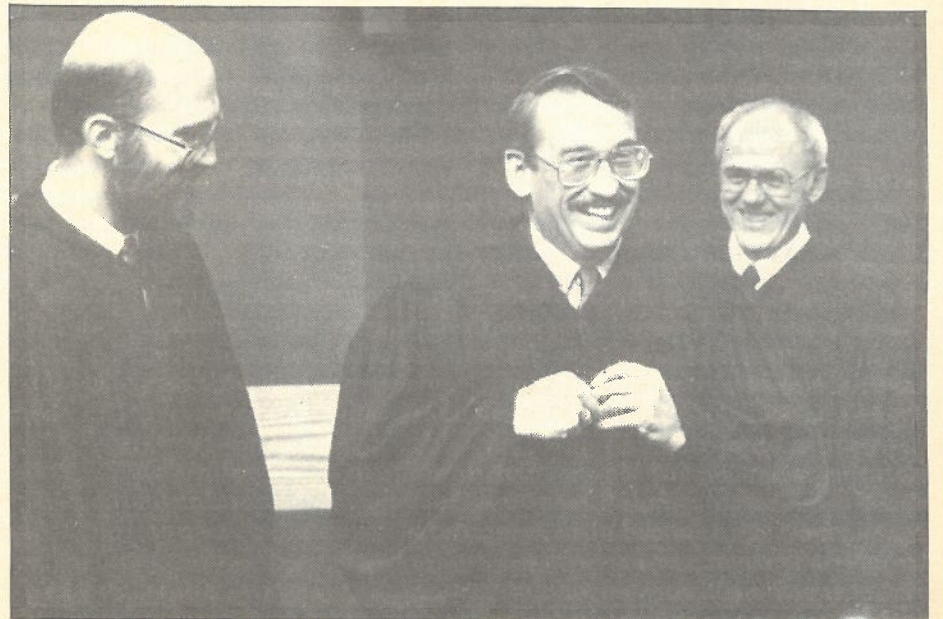
When he first took the bench in

September, Weeks was a little nervous. He tripped on the hem of his robe his first day. The jury in his first criminal trial sent out a note asking whether their verdict had to be unanimous. Seems the ex-prosecutor had forgotten to give an instruction on that matter. Since then, he has settled into the role. He has heard almost every kind of case: children's proceedings, including termination of parental rights cases, criminal trials, summary judgment motions, preliminary injunction and TRO hearings, mental commitments, alcohol commitments, and emancipation proceedings.

Weeks says he feels lucky to be on the bench in Southeast Alaska, where he characterizes the bar as very professional.

He says good lawyers generally try to do the right thing, and the judges can rely on them even in very difficult situations.

The credibility lawyers gain by being forthright with the court will pay off in the long run, Weeks believes. Retired Superior Court Judge Thomas Stewart probably had the most impact on how Weeks perceives the role of a good judge: "He always knew his evidence — he was very smart — and he al-



Superior Court Judges Walter Carpeneti (left) and Thomas Schultz (right), look on as new Superior Court Judge Larry Weeks dons his robes. Mark Kelley, Juneau Empire.

ways tried to make people feel good. People want to have the opportunity to give their views and want to feel that their views have been listened to, even if they're not followed."

Weeks is an active member of the Juneau Bar Association, and has been on the Board of Governors of the Alaska Bar Association for the last five years. He has time for

family and community responsibilities, too. He and his wife, Maureen, can often be seen walking around town talking to their many friends. They have two children, both away at college. Alex, 22, is at New Mexico State, and Rachel, 20, is at Willamette University. We wish them all the best as Larry embarks on his new responsibilities.

Nelson appointed 9th district judge by Bush

Thomas G. Nelson, Esquire, of Boise, Idaho was appointed October 17, by President George Bush to fill the last remaining vacancy on the 28-member United States Court of Appeals for the Ninth Circuit. The vacancy had remained unfilled since the death of Judge J. Blaine Anderson in April 1988. Judge Nelson will maintain his chambers in Boise.

A native of Idaho, Judge Nelson was born in Idaho Falls in 1936. He was graduated from the University of Idaho School of Law where he was a member of Phi Alpha Delta. He was admitted to the Idaho Bar in 1962. Judge Nelson spent three years in the Idaho Air National Guard and three years in the Judge Advocate General's Corps of the U.S. Army Reserve. He spent three years in the Idaho Attorney General's office, first as an assistant attorney general and then as Chief Deputy Attorney General for Criminal Affairs.

Judge Nelson moved to Twin Falls, Idaho in 1965, joining the firm of Parry, Robertson and Daly. Upon the dissolution of the firm in 1979, he became a principal in the firm of Nelson, Rosholt, Robertson, Tolman & Tucker, Ch. He was nominated to the United States Court of Appeals in July 1990 from his sixteen-member law firm, where his principal areas of legal specialization were water rights, construction claims, and municipal law.

While in Twin Falls, he served a term on the Twin Falls City Council, on the Board of Directors of United Way, and as president of the Civilian Club of Twin Falls. He also served as chairman of citizens committees which started and op-

erated a temporary shelter facility for non-delinquent children and a facility providing specialized services to retarded and handicapped children.

Judge Nelson actively served the organized bar in Idaho. He held memberships on the Continuing Legal Education and Bar Examination Committees, and on special committees on rules of criminal procedure and appellate case delay. He served two terms on the Idaho Supreme Court Committee on Appellate Rules. In 1972, he was elected to the Board of Commissioners of the Idaho State Bar, serving as president in 1974-75. He served as a lawyer delegate to the Ninth Circuit Judicial Conference in 1974 and held a three year term as a lawyer representative to the conference in 1978-81.

Judge Nelson is a Fellow of the American College of Trial Lawyers and the American Bar Foundation. He is a charter member and past president of the Idaho Chapter of the American board of Trial Advocates, and a past president of the Idaho Association of Defense Council. He is a member of the American Judicature Society and the American Bar Association, serving in the House of Delegates in 1974 and 1987-89. He is married to Sharon R. Hall and has two children and two step-children. He and his family enjoy white water rafting and snowmobiling.

Judge Nelson's formal investiture ceremony will be held at the United States Courthouse, 550 West Fort Street, Boise, on Tuesday, November 13, 1990. He is expected to begin sitting with the court to hear oral arguments in December.

Frank Adams, publisher of Montana Bankruptcy Reports, plans to begin publication of Alaska Bankruptcy Reports this November.

The new reporter will contain copies of decisions from Alaska's two bankruptcy judges, together with digests and extensive indexing. The reporter will be published initially on a monthly basis. Monthly publication may be adjusted depending on the demand for the service. The cost of the service is uncertain at this time and will depend on the number of subscribers.

Adams has a background in journalism and has been successful in establishing a variety of legal publishing services in Montana. He is a graduate of the University of Utah Journalism School, has worked for United Press International in Montana and New York, and wrote for radio station WCBS in New York City. He was chief of the Capitol Bureau of the Great Falls Montana Tribune for 14 years, during which he became well known as an investigative reporter and columnist. His interests gravitated toward the judiciary, and in 1980 he was awarded a Nieman Fellowship to Harvard, where he took classes at Harvard Law School.

Adams started Montana Law Week in 1984 as a weekly digest of Montana Supreme Court decisions. Lawyers suggested there was a need for more current reports in digest form. It was an immediate

success.

His publications have rapidly expanded into all major areas of Montana law, providing digests of opinions, verdicts, and settlements from the Federal District Courts, State Courts and Workers' Compensation Court. A separate publication providing previews of new Supreme Court appeals was started, and also proved highly successful.

In 1987, at the urging of bankruptcy practitioners and with the full cooperation of the bankruptcy court, Montana Bankruptcy Reports began publication. This reporter provides full, citable texts of precedential bankruptcy orders of importance to the local Bar. Most of these orders are not published nationally. The reporter also features digests and comprehensive indexes.

Adam's company, Montana Law Week maintains the latest in computer and printing technology to publish these publications, and has earned a reputation for accuracy and reliability. Adams and his staff now plan to apply their experience and technology to Alaska Bankruptcy Reports.

Further information regarding the publication can be obtained from Mr. Adams at 515 N. Sanders, Helena, Montana 59601 or by calling him at (406) 443-5312.

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THE NEW JUDGES

Youth court logs 40,889 hours

BY DEBBIE HIPSHER

If you have come across a group of lawyers deep in conference in the lobby of the State courthouse in Anchorage and decided that first year associates just COULDN'T look that young, you may be right. The award-winning Anchorage Youth Court is starting its third year.

Anchorage Youth Court allows young people between the ages of twelve and eighteen to act as judges, lawyers, clerks and bailiffs in actual juvenile proceedings. Students take an eight-week law course taught after school and on weekends by local attorneys, then take a mini bar exam. If they pass they become members of the Anchorage Youth Court Bar Association. Anchorage Youth Court members participate in real trials, CLE's, business meetings and a statewide mock trial competition, the winner of which goes to national competition. In its first two years, over 250 youths have become Youth Court attorneys.

As a diversion program, Anchorage Youth Court has heard over thirty actual cases. It allows juvenile defendants a chance to have a trial by their peers without receiving a criminal record. Defense and prosecution teams are appointed, and develop their cases with the assistance of volunteer adult attorney advisors. All proceedings are held in front of a three-judge panel, but defendants may elect to have their trial in front of a jury of students if they wish. The court has the authority to sentence convicted defendants to pay restitution, perform community service, and/or attend educational programs, but

cannot give jail sentences. After completing their sentences, defendants have no criminal record.

The program has attracted national attention. It was recently awarded a Second Place Award of Recognition by the American Bar Association Young Lawyers Division in its yearly national review of projects intended to serve the public. Prior to that it was presented at the American Bar Association Young Lawyers Division conference in Vancouver, British Columbia. Groups from cities across the country, including Boston, Philadelphia and Los Angeles, have requested information to help start their own Youth Court programs. Locally, the Anchorage Association for Volunteer Administration and the British Petroleum Company gave Anchorage Youth Court an award for "outstanding volunteer program" in recognition of the 40,889 hours donated by students and adults to the community.

The third year promises to be even better than the first two. The program has received funding from IOLTA and the Anchorage Bar Association to hire a full-time employee. 250 young people have enrolled in the course. Volunteers are desperately needed to help teach, put on CLE programs and act as advisors to litigation teams. If you are interested in volunteering, please contact: Sharon Leon at the Anchorage Youth Court Office between 1:00-5:00 p.m. Monday-Friday, P.O. Box 102735, Anchorage, Alaska 99510, John Ealy of Heller, Ehrman, White & McAuliffe at 277-1900, or Blythe Marston of Bogle & Gates at 276-4557.

• Mannheimer

of the case, including the moral force behind the arguments. Under his leadership, he asserts, OSPA has not been afraid to confess error when convinced that that was the correct legal conclusion.

Mannheimer was asked what he viewed as the most important traits of a judge which he hoped to bring to the bench. He replied that they have the abilities to listen to

Continued from page 8

people carefully, and to care greatly about pursuing justice.

Peter Michalski echoed Mannheimer's views. In addition to bringing to the bench energy, desire and extremely good lawyer skills, Michalski said, David Mannheimer will bring to the Alaska Court of Appeals a real sense of fairness and justice.

Mysterious judicial duck stories



Fairbanks Daily News-Miner

Four Bar Rag reporters were recently dispatched to Fairbanks to investigate this photograph which mysteriously arrived at Bar Rag offices. Unfortunately a consensus was not reached prior to publication as to which story, if any, was accurate. All four therefore are being printed in furtherance of the Rag's policy of accuracy and full disclosure.

Fairbanks judge rescued from frozen ice by white duck

A prominent Fairbanks judge was recently rescued from certain death on the ice flows of the Chena River by a white duck. Unsubstantiated rumors reveal that the judge became lost in a snow flurry while en route to his mail box and stumbled onto the river ice. The duck found the befuddled judge and led him to the river's edge, where his daughter, after having heard the quacking, hoisted her father to safety.

Judge submits photo to verify white duck sighting

A local Superior Court Judge, who in the past has reported sightings of white elephants, purple cows, and kamikaze rabbits, now claims to have seen a white duck swimming in the frozen Chena River ice. Court personnel

were not surprised at his claim, but were particularly impressed with the attached photo of a white duck superimposed over a photograph of the abominable snow man.

Judge continues quest for golden eggs

A local Superior Court Judge came one step closer in his quest for the golden egg. Last week the Judge sighted what he felt was Mother Goose on the frozen Chena River ice. The Judge's efforts to trap what turned out to be a white duck were unsuccessful, although he is convinced that the river bottom is covered with golden eggs and intends to lead a survey expedition of the river's bottom this spring.

Judge lured to river's edge by white duck

Disaster nearly struck the Golden Heart of Alaska when a white duck lured a local Superior Court Judge onto the ice infested Chena River. The duck, apparently disheartened over his treatment by the Judge during the summer, left a trail of crackers enticing the Judge across the new fallen snow and onto the weakened ice. Rumors have it that had the Judge not finally reached the end of his rope, he would have been swallowed up in the churning waters.



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JURISPRUDENCE

By Daniel Patrick O'Tierney

Alternative dispute resolution (ADR) may be an idea whose time has come in Alaska. Most lawyers are familiar with the concept and younger members of the Bar may even have taken a law school course in mediation, or the like. For various reasons, several independent areas of interest in ADR have developed in the past year.

ADR is the generic term for alternatives to litigation as a means of resolving disputes. Arbitration is one well recognized alternative but it, like courtroom adjudication, involves imposition of a binding decision by a neutral third party. Most of the current focus of ADR is upon the advantages of mediation.

Mediation involves the use of a third party (mediator) to assist or guide the disputants in moving toward a solution they can both live with. The mediator does not impose a decision on the disputants. Instead, they actively decide how to resolve the case and mutually commit to work toward the resolution. The goal of mediation is settlement, not the assertion of principles or vindication of rights.

ADR is touted as being faster than judicial decision-making, less expensive, less public, and better able to preserve working relationships between the parties than the adversarial process.

While ADR may seem a fanciful idea to some litigators, others will agree that some disputes simply are not well suited to trial. Family law matters immediately come to mind, as well as consumer complaints.

Construction claims are also a

prime candidate for ADR in the view of Glenn Cravez. He is the Interim Section Chair of the newly created ADR section of the Alaska Bar. The Board of Governors' recently approved this new section which will hold its first organizational meeting this December.

Alaska may well be behind the times in some respects. Some jurisdictions require certification that ADR has been unsuccessfully attempted (or is otherwise unsuitable) before the litigants can get a trial date. Recently, the Colorado Bar Association (CBA) and various Colorado businesses and commerce organizations have initiated an innovative ADR program. "The Colorado Pledge" is a program where subscribing Colorado businesses promise not to file a lawsuit against their business counterparts until they have first explored resolution ("in the old fashioned way") by negotiations, mediation, arbitration or some alternate form of dispute resolution.

The idea behind the Pledge originated from the CBA committee on ADR which recognized that 95 percent of all cases settle without trial, and often on the eve of trial. The program will be administered by the CBA which will maintain a registry of participating businesses and facilitate the ADR process by publishing a statewide directory of mediators.

On the homefront in Alaska, there are a number of unrelated examples of further exploration of ADR. The Mediation Task Force published its final report to the Supreme Court this year and made ten specific recommendations.

Among them, the Task Force recommended Supreme Court adoption of a new civil rule which would enable a judge to refer *all* types of civil cases to mediation. Currently, trial courts have statutory authority to order parties to submit to mediation only in matters of child custody and divorce. (See AS 25.20.080 & 25.20.060) However, there is reportedly little use of existent authority by trial court judges because there is no court system referral method for the appointment of "qualified" mediators and no formal method for moving cases between the court system and court-appointed mediators.

The Alaska Judicial Council is currently administering the Child Visitation Mediation Pilot Program which was created and funded by the Legislature. This project will offer, at no charge, the services of locally trained mediators to parents in the Third Judicial District who have a current visitation Order disagreement. The Council has been soliciting mediators and encouraging attorneys to refer clients who might benefit from this service. The program is expected to be on line by January, 1991 and continue for at least a year. Susanne DePietro is the staff attorney for this project.

Also, several attorneys in private practice are members of the Alaska mediation panel of U.S. Arbitration and Mediation, Inc. These attorney-mediators are trained by the company but practice as independent contractors. The only area of dispute which is not accepted for mediation is domestic relations. Member Pete Crosby reports that insurance companies are finding

the mediation concept attractive.

Lawyers are not the only ones involved in the development of ADR. The Alaska Dispute Settlement Association (ASDA) organized in 1987 as an informational group for individuals involved in family mediation and arbitration. Apparently, there are some twenty mediators in practice locally. ASDA annually sponsors a mediation training clinic. Bar member Drew Peterson has been a member of ASDA since its inception.

Another example is the Better Business Bureau of Alaska, Inc. (BBB) which offers dispute settlement services at its office in Anchorage. The BBB is a private agency that offers both consumer mediation and arbitration for business disputes and utilizes community volunteers trained by the BBB. Probably the best known service is the Autoline program which handles disputes between consumers and participating auto manufacturers. Mediation is free and if a dispute proceeds to arbitration, fees are split equally between the parties.

As this article documents, there is meaningful ADR activity afoot in Alaska of late. At this point, there is no single regulatory structure for professional organizations or practitioners in this field who are drawn from different educational backgrounds. No doubt this will be one of many topics broached by the new Bar section on ADR as it begins to take shape in 1991.

This article is printed with permission from "Alaska Business Monthly" for which the author writes a regular column on legal matters of interest to the business community.



ESTATE PLANNING CORNER

By Steven O'Hara

Real estate professionals say there are three rules in real estate: location, location, and location.

In estate planning, when counseling a happily married client, my three rules are: equalize, equalize, and equalize. This means to arrange assets so each spouse *separately* owns approximately the same amount of property.

Equalizing can cut taxes in half.

Consider a married couple, domiciled in Alaska, both U. S. citizens. They have no debts and neither has ever made a taxable gift. Their sole asset is a \$2,000,000 brokerage account, which they own as joint tenants with right of survivorship.

Suppose the husband dies today and the wife dies a week later. Under these circumstances, the surviving spouse's estate would, under current law, owe approximately \$600,000 in estate taxes (I.R.C. Sec. 2001, 2010, 2011, and A. S. 43.31.011).

These taxes could have been cut in half had the couple separated their asset by, for example, each

owning a separate brokerage account in the amount of \$1,000,000.

If each spouse had separate property of \$1,000,000, rather than joint property of \$2,000,000, the combined estate taxes for both estates would have been approximately \$300,000 (id.).

Equalizing often involves gifts between spouses. Accordingly, it should be kept in mind that gifts to spouses who are not U. S. citizens do not qualify for the gift tax marital deduction (I.R.C. Sec. 2523(i)). There is an important exception to this general rule. Congress has increased the \$10,000 annual exclusion from taxable gifts to a \$100,000 exclusion in the case of present-interest gifts to a spouse who is not a U. S. citizen (I.R.C. 2523(i)(2)).

Equalizing can cause other problems. Stories abound in the estate planning community about spouses who have departed the marriage after receiving a gift intended to minimize transfer taxes.

Equalizing does not need to oc-

cur, however, through outright gifts. Gifts can be made through trusts that accomplish equalization.

In addition, partnerships and corporations can be used. For example, a newly-married client may wish to equalize her estate, but may be reluctant to give her new spouse control over half of the property.

Suppose she finds a trust undesirable. Under these circumstances, the client might create a limited partnership, naming herself as the sole general partner.

She may then contribute the property (she wishes to equalize) to the partnership and arrange the ownership of interests between herself and her spouse so as to accomplish equalization.

As a limited partner, the client's spouse would have no authority over the property and could be subject to transfer restrictions. Bankston & O'Hara, *The Creation, Operation, and Dissolution of a Limited Partnership in Alaska*, 2

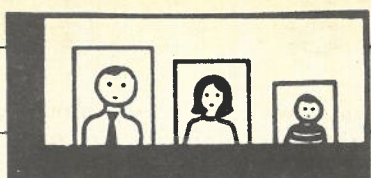
Alaska L. Rev. 271 (1985).

Similarly, a corporate arrangement could be used with a creative buy-sell agreement. See A.S. 10.06.424 (on buy-sell agreements).

Agreements to make a Will and other nuptial agreements, whether prenuptial or postnuptial, can also be used in conjunction with equalization. See A.S. 13.11.285 (on Will agreements), and A.S. 13.11.085 and Brooks v. Brooks, 733 P.2d 1044 (Alaska 1987) (on nuptial agreements).

Carefully tailored powers of attorney should also be considered, using the statutory form provided at A.S. 13.26.332 as a starting point.

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PEOPLE

Michael Boling has relocated to Dallas, TX.....**Bruce Brown** has moved from Kodiak to Anchorage.....**James Brinker** has moved from Tennessee back to Anchorage.....**Gene Burden** has moved his office with Tesoro Alaska from its location in Anchorage to Kenai.

Debra Braga has moved to Orlando, Florida.....**Sharyn Campbell** has moved from Tennessee to Anchorage.....**Mary Geddes** is with the Alaska Public Defender Agency in Anchorage.....**Theresa Hillhouse** is now with Advocacy

Services of AK.....**Pamela Kelley** is now longer associated with Bogle & Gates and is now operating as a sole practitioner.

Leroy Latta, Jr. recently accepted a position as an Assistant District Attorney with the Alaska Dept. of Law, Criminal Prosecutions Division.....**Joseph Levesque** is now an Assistant District Attorney in Kenai.....**Ron Miller** is now an Executive Vice President with Bering Straits Trading Co.....**Erin Marston**, formerly an Assistant D.A., is now

with Stafford, Frey, Cooper & Stewart.....**Retired Judge Constantine Occhipinti** recently went on retired status with the Alaska Bar Association.

John Sivertsen has relocated to Juneau.....**Stephen Wallace** has transferred from the Palmer D.A.'s office to the Bethel D.A.'s office.....**Martin, Bischoff, Templeton, Ericsson & Langslet** is pleased to welcome **Michael G. Fetrow, Michael J. Farrell, Felicia R. Value** and **Cynthia C. Byrnes** as new associates of the firm.....**Art**

Peterson has retired from the Attorney General's Office October 31 and will be opening his own law office in Juneau. He is continuing as a Uniform Law Commissioner and is on the Alaska Legal Services Board of Director.

Peterson retires from AG's

JUNEAU — Attorney General Doug Baily announced recently the retirement of assistant attorney general Art Peterson. Peterson, 51, has been an attorney with the state for the past 24 years.

"Art's departure is a big loss for the state," Baily said. "For more than two decades he has handled cases ranging from tax matters to criminal appeals. His experience with state legal affairs will not be easily replaced."

Peterson received his bachelor of arts degree from the University of Chicago and graduated from Wayne State University Law School in Detroit.

He is former legislative counsel and revisor of statutes of the Legislative Affairs Agency. He also has served as counsel to the House and Senate Judiciary committees and he produced the first 10 editions of the "Drafting Manual for Adminis-

trative Regulations."

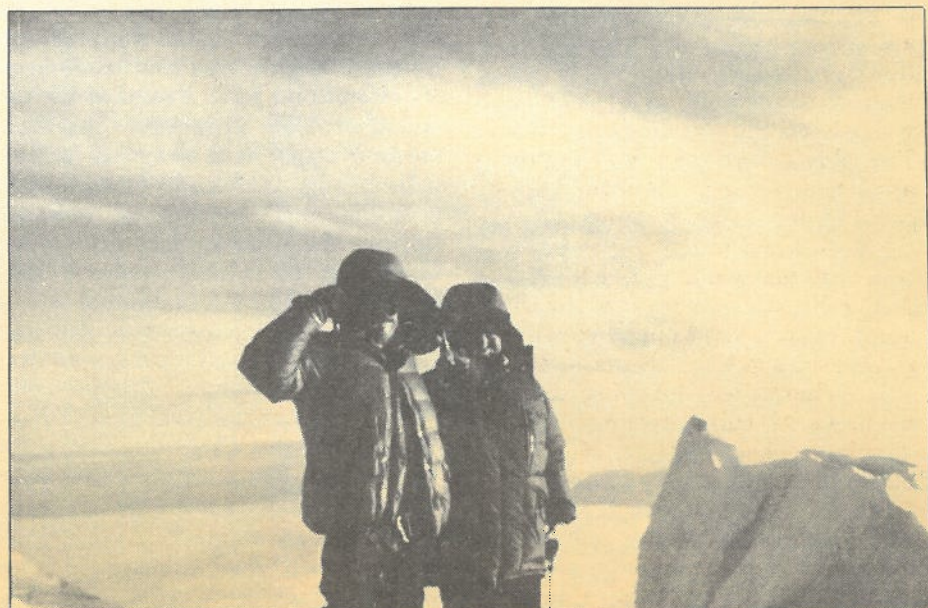
Since 1973, Peterson has been an assistant attorney general and regulations attorney with the Department of Law. He has supervised the department's legislative drafting and review for the executive branch, as well as the processing and final review of administrative regulations adopted under the Administrative Procedures Act.

"I've known Art for many years and he's one of the best when it comes to understanding the legal intricacies of state government," Governor Steve Cowper said. "He's been instrumental in the development of our statutes and codes and regulations as the state has grown."

Peterson's last day was October 31, 1990. No replacement has been announced.

— *Department of Law press release, Sept., 7, 1990.*

Attorneys climb the Great One



John Thorsness and Mike Lessmeier (left) reach the summit of Mount McKinley, June 18, 1990.

TVBA clients are diverse breed of different souls

September 21, 1990

The body arrived and dispersed among four tables for its weekly ration of fish balls and fake crab salad. Numerous sidebars commenced almost immediately prior to mini-maximum leader Gail Ballou's call to order. We assumed the absent M.L. "Fearless" Cooper to be either advising the State department on Iraq or in a smoke-filled back room in Juneau.

Noteworthy comments occurred at Judge Steinkruger's table where the Judge, resplendent in Calvin Klein jeans and Sandra Day O'Connor boots, revealed the morning's happenings: Her morning's hearing was at the jail with "ties optional," primarily because the subject insisted on clothes being optional. Dr. Rothrock had advised wearing Army ponchos and hip waders as another of Fairbanks "End of the Road" Gang appeared destined for A.P.I. I caught comments such as "Feebs," "Droolers" and "Flingers." While some present assumed the discussion was about a TVBA favorite short story by Jack London, I knew in my heart it wasn't so. While one prominent jurist noted that a lot of drivel and bull emanated from our district court, general disagreement existed as to whether it was the droolers who represented the feebs or the feebs who represented the droolers.

Consensus was reached, however, as to our response when asked by Anchorage practitioners and potential employers regarding the experience level gained in Fairbanks District court. It will be "Practice in the Fairbanks District Court has provided us with a rich and varied background." This will be delivered to the questioner with a slight role of the eyes and in no further detail, and it is the appropriate response for both jurists and practitioners, alike. (Of course, those of us in the TVBA will recognize this to be in code to mean "We've represented a lot of feebs, droolers and flingers up here.")

My table was also rich in pre-meeting oratory. Power brokers Call, Madsen and Savell commented that had they known of the Coghill defection from the GOP, they could have nominated M.L. "Fearless" Cooper for Lt. Governor. It was generally agreed that this would have solidified for the GOP the hotly contested Polish Woman AND Yuppie votes.

Finally, amidst much humor and bedlam, Gail called our meeting to order. Judge Jon, again maintaining a perfect attendance record since his farewell party, introduced a lovely lady barrister from Anchorage, whose credentials included something to do with the ABA. I apologize for not getting her name; however, I must admit to in-

tentional neglect here as I imagined publication under Beistline's headlines, "Judge Jon brings mysterious, tall ABA lady to TVBA lunch while Millie is in Miami."

The equally mysterious *Chancy Croft* made a rare guest appearance. (Chancy is equally mysterious because none of us understand how he has cornered the worker's comp market in Fairbanks for so long while living in Anchorage.)

Finally, we got down to serious business about, what else, our copier in the library. It seems to be incarcerated wrongfully behind lock and key in direct violation of the attorney's after-hours right to use the courthouse bathrooms. (By opening this room's hallway door and inserting the trash can, one gains access to the commodes with the peace of mind that the route of library re-entry remains clear.) Lawyers unsure of their popularity among their peers — and judges who anticipate the presence of public defenders in the library — should ALWAYS use the facilities before going to the library after hours.

Comments were noted that the plants situated at floor level were yellowing and deteriorating since the lock up. UA's of the potting soil were recommended.

Mac Gibson stated that he recognized our plight and had unlocked the door recently, but then to his moral dismay, he discovered that the copier had been used one time

during that reprieve. Thus applying the *Chancy* criteria, he had no choice but to re-lock the room. M.L. Cooper, being absent, was, of course, blamed.

The donation of the copier to Big Brothers/Big Sisters was again raised and actually came to a vote. Gail called for a show of hands. Despite allegations of members raising both hands, the vote resulted in a tie 12 to 12. A recount was ordered, again resulting in a tie vote, 16 to 16. Our parliamentarian decreed that in the unique situation of a tie vote, twice over with inconsistent counts, our mini maximum leader was authorized to vote. Gail proceeded to vote her conscience, and the copier remains. Gail thus rises to the level of "Fearless," a position held only by the absent M.L. Cooper.

Exhausted and in the presence of so many visiting Anchorage attorneys, we delayed more serious business until another day, and the meeting was adjourned.

These are the facts as best I recall. Submitted this date to Chris Zimmerman.

Your Humble Assistant,
Bob Noreen

IN MEMORIAM

Eugene F. Wiles, of Delaney, Wiles, Hayes, Reitman & Brubaker, P.C., died of a heart attack on October 18, 1990.

Running a home office for fun & profit

BY JULIE CLARK

As a sole practitioner, I run my office from my home. This started as a temporary measure when the landlords downtown wanted sums of money just slightly smaller than the national debt for a broom closet. The landlords didn't even include any tasteful potted palms, desks, handsome male secretaries or the other necessary accoutrements of the modern law office.

The fact that oil went down taking the local economy with it, made the temporary measure almost permanent and I have celebrated (if that is the term I want) five years with the home law office. The office takes the lower level of my house in prestigious Oceanview. (okay, okay, basement).

The move was simple. I rented a large truck, hired three teenagers, and promised them riches beyond their wildest dreams if they finished the move in four hours, which was when I had to return the truck. The oldest teenager was eighteen and would you believe — he couldn't drive a stick shift!

I hadn't had to drive one of those since the last ice age. If I live to be 100, I hope I never have to drive another one. We hopped down the road until I got the feel of the stick shift. Thereafter, lurching did the trick. Good thing teenagers have supple necks. If they had been older, their heads would have fallen into the back seat. I had the advantage of knowing when the lurches would happen.

After kicking out ten thousand spiders and repainting a little the office was ready. I however, was not.

Some of the problems of having an office in your home are outlined below. Don't say you haven't been warned.

The telephone is a lovely invention, except when it rings at three a.m. because your client, who has since relocated to Timbuktoo forgets about the time difference.

Me: Hmmph. (Coming out of deep alpha sleep)

Client: Julie. I was just thinking about my case and I want my

bowling ball. That *9%\$@@!! witch still has it.

Me: Who is this?

Client: Joe Blow.

Me: (sweetly) Do you know what time it is?

Client: Oh, did I catch you at a bad time?

Me: It is three ayem. I am asleep.

Client: Oh, did I wake you? Well, since you are up, I want to know, what are my chances of getting an income tax deduction on a 1701(b)(3) exemption and I want my bowling ball.

Me: (getting slightly testy) I don't know. I'm not an accountant. Wait just a minute, while I check the phone book for the names of some accountants. (After all, why should accountants get to sleep either)

Then there was the phone call on a Saturday night while I am entertaining dignified and distinguished guests and we are in the midst of a water fight. (I never could resist a water gun when there are three people at the table all wearing glasses). Anyway, there is a phone call from a potential client who was then serving a short stretch at the C Street jail. At least he claimed it was a short stretch.

The phone rings at about the time the water fight has escalated to large balloons filled with cold water. I point out the time to the potential client mindful of the fact that someone is creeping up with a large mixing bowl full of cold water to dump on my head. Then the caller proceeds to tell me a tale which starts out with some guy parting the Dead Sea and which tale wends its weary way through the decline and fall of the Roman Empire and finally the caller complains about some cop violating his civil rights just because he (the inmate) tried to make a pancake out of the officer with a Chevy.

I point out breathlessly that I am not a criminal lawyer. (That water is cold!)

The caller then proceeds to tell me how his case will make my reputation and make us both a pot of money, although how the latter will come about is left somewhat vague.

I then point out that what I know about criminal law and procedure would fit on the head of a pin with room left to engrave the collected works of Shakespeare. This almost never seems to faze the callers, so I have to bring out the big guns.

"Look, you want ninety-nine years for spitting on the sidewalk, you hire me. If you want a chance, you hire a *real* criminal lawyer."

This usually stops the litany of crimes and misdemeanors. But sometimes they claim they don't have a phone book so I happily read them all the names of attorneys listed under 'Criminal Law' in the phone book. Sometimes I even look up the residence number for them. Why should they enjoy life either?

When you have a last name beginning with 'C' you get resigned to calls from drunks and people who are residing at API, usually impossible to distinguish. The phone rings at midnight and some character immediately launches into his rapid-fire tale of woe. "Look, my girlfriend is mad at me because I like to (insert herein several sexual practices that would give the Marquis de Sade a fit of dry heaves) and I want to know if she can put me in jail." I reply "I don't know for certain. Seven to ten years, I think, but you'll have to ask a lawyer who does criminal work. Or is it thirty years?"

(Stunned silence) Click.

Moral: Never, ever gasp in shock. You'll get calls every night then, unless you want such calls.

One rule for the home office. Don't get sick. In the middle of the most beautiful summer on record, I got three different, nasty kinds of flu, one after the other. When I felt the worst, the phone rang the most.

The home office also comes with the accoutrements of home, such as pets and children. Mine comes with cats. One could substitute two-year-olds for cats. All cats are two-year-olds. A comedian the other night said cats' jobs are to be cool.

Mine think terrorizing clients (male) is cool. For some reason, men will not admit to a fear of cats,

but I catch on pretty quick, especially when they turn pale, roll their eyes and try to climb the walls without being too obvious. Charlie, a big, long-haired red cat could be sleeping off a night of debauchery upstairs, but one poor man who was obviously afraid of cats could just sit down in the office and Charlie would come roaring down the stairs with an expectant look on his face. "Oh, boy, I get to make this guy climb the walls again. It's been too long."

Once, in a period of affluence, I had a secretary who was instructed to check with clients if a cat followed a client into the office. My secretary did and even asked if the cat would bother him, which he denied stoutly. She came into my office with a message and we heard an uproar from the reception area. The client sat down, Charlie jumped on the chair beside him and started sharpening claws on the seat, a signal that he wanted attention, such as a smack from me for clawing the chair.

Maggie, my secretary and I rushed into the office where the client is now standing, who stammers "Whoa, he's gonna cut me!"

"No, charlie won't scratch. He even babysits the toddlers who come in," I reassure the frightened client, a man so big, he could go bear hunting with a stick.

"If he's so gentle, why's he stoppin' his claws," points out the gentleman who is nervously eyeing the walls for handholds.

"That's only so that you will pay attention to him. He wants you to pet him. That's all." Although my reassurances were true and Charlie had patiently let himself be mauled by two-and three-year-olds for an hour or two while the parents were in my office, it didn't seem to calm the poor man.

However, for every client like that, six or seven are visibly soothed by having a cat or dog to pet. The trick is to spot that flash of fear from the people who are afraid of cats, dogs or kids. I, for one, fear the last named.

YOU THINK SOME LAWYERS DON'T HAVE PULL DEPARTMENT

A while ago, I met Bill Ford and Jim Babb outside the courthouse. Bill is telling us how he has a hearing with Joe Palmier, who is waving his arms and claiming his client is so impoverished that the client cannot even pay the electric bill. The lights promptly went out.

Bill Ford was dumbfounded. "How did you do that?" he wanted to know. Joe Palmier probably just looked smug.

Price publishes Native history

Robert E. Price recently published *The Great Father in Alaska: The Case of the Tlingit and Haida Salmon Fishery*. It is a political history of the Alaska Natives as this developed in Southeast Alaska.

The book includes a discussion of all major legislation and cases concerning the aboriginal rights of the Alaska Natives. It is 203 pages and has 14 illustrations. Copies may be purchased from the author for \$20. (postage included) at the Bristol Bay Native Corporation, 800 Cordova, Anchorage, Ak. 99501.

• Movies

Continued from page 7

another is a serious student. To tell you the truth, these guys sound exactly like my old squad in the 82nd Airborne Division (and, no, Tony Knowles was not one of us) causing me to wonder aloud if wars ever change — isn't it the economic middle and lower classes who fight this country's wars?

- A shot of a slow, lumbering, partially disabled B-17 bomber returning from Germany to home base in England. Its engines are out, it lumbers in for an uncontrolled landing, bounces, rolls, comes to a dead stop, and then blows completely up before the crew can evacuate, high-lighting the salient fact that no bomber crew is home free until they walk away.

- Foreshadowing — telling us what to expect, then doing the expected lovingly. At a large hanger in England enlisted men are decorating the hall for a USO dance. A net of helium filled balloons floats overhead, and yes, just after you forgot about them, they are dropped at the dance adding to the gaiety.

- Matthew Modine talking to the

MEMPHIS BELLE late at night. He's serious, as though talking to a woman he loves, even adding "I miss you, gal" to his real life Belle back home, while in the plane itself one of his crew is making it with a local lass least he die on his last mission without enjoying the full mysteries of forbidden sex.

- The delayed mission sequence so frequent in combat. Here the crew is ready to go but the clouds cover the target area in Germany and they are ordered to stand by. For the first time in movie history one of the crew tells you, the audience, exactly what SNAFU stands for (situation normal, all ____ up).

- All of the contrasting scenes of the yellow wheat fields of England against an old castle next to the airfield as a civilian farmer goes about the business of collecting the harvest to feed the masses. In a war people eat, people live, people die, but the draft horses and men of the land move on slowly, always close to the land, always working together to harvest what the land offers, and always with the quiet confidence that men who are not doing so simply are not lucky.



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German wines offer diversity to palate

BY STEPHAN A. COLLINS
A free Lancers Port drinker

I do not mean to sound like a H.E.M.P. activist, but I think that more people should enjoy drinking wine.

I do not mean that everyone should go out and get stone drunk on the stuff. I mean that people should not be intimidated by wine. Drinking wine is a pleasure that is not limited by age (well, you have to be at least 21 in America) or out of body experience.

No one should forget that wine is an agricultural product. But what an agricultural product. Wine is definitely not like milk. Wine can range from simple to complex. Its flavor and smell — the bouquet — are affected by a myriad of variables. For instance, wine can be affected by the grape variety, the country of origin, the region of origin, the type of soil under the vines, the amount of sunshine the grapes receive, the amount of rain that falls on the vines, the vintner, the amount of acid in the wine, the amount of sugar-natural or added, the blend of grape variety, the length of time the grape skin remains in contact with the juice, storage — in casks and bottles, air, and age. With all these variables, you can see that a mathematician could have a field day in trying to figure out the permutations. I personally could not do this because I became a lawyer.

If anything bothers me about the wine drinking experience, it is those people who act stuck up when discussing wine — like the wine steward at a fancy restaurant. The wine steward, or the sommelier, is there to assist you in making a wine choice, not intimidate you. Remember, stuck up people are that way because they have a physical condition that is aptly described by the epithet. If I can make a well thought out wine choice, anyone can. Even I was able to stand my ground by pointing out to the mumbling clenched-tooth wine steward at the Gregorian restaurant in the Four Seasons hotel in Seattle, that the Italians do not produce Spanish wine.

The pleasure of wine can not be enjoyed by reading about it. I think that this is where much of the wine anxiety in America comes from. If you are at a restaurant and decide you would like to drink some wine with your meal, you look at the wine list. Yet, if you do not have much experience drinking wine, you will likely not know what you are going to be drinking. With all the flower and wood descriptions, you will probably think someone from EARTH FIRST! wrote the wine list.

I am not one who is particularly swayed by flowery or woodsy owl descriptions of wine. If I do not know much about a wine or variety of grape, these descriptions are not particularly useful. If you have ever read many wine lists, you will see that a lot of wines have ambiguous descriptions. Remember, the description of the subtle yet authoritative dominatrix wine? I need to know first tongue what a variety of wine has to offer before I will consider ordering it.

I admit, a written wine description can be informative. Yet, you can only know from personal experience what taste sensation the writer is trying to describe. Other-

Key for wine label



wise, you might think wine writers hang around flower shops chewing on the plants and/or nibble on oak cabinet furniture. You should know that wine descriptions are perhaps 83.14159265+% subjective and are usually written by those professional wine tasters who spend their time in candle lit rooms squinting at wine in the bottom of a silver plate and then spitting it out. They do not even swallow some of it. I have a confession. Contrary to what my friends believe, I am not a professional wine drinker. I usually taste my wine without spitting it out — that is of course unless someone has caught me off guard with a particularly funny story. So, you might take whatever I have to say with a dram of malt.

As you have perceived, I believe that to enjoy wine, you must drink wine. Yet, the real pleasure of drinking wine goes beyond the alcohol consumption. The pleasure comes from tasting the various flavors present in a good, well crafted wine. Wine is not a generic product; if it were, wine would come in "Wine" bottles like in the movie "Repo Man."

Anyone can acquire what is called an educated palate. Yes, schools do exist to train wine tasters, but you do not have to go to one. Your education will come from a willingness to taste different wines. I believe that a person with an educated palate is one that has tasted enough wine to be able to distinguish the differences between wine varieties and the nuances contained in the wine itself.

Any place in the world where grapes are grown, there will very likely be produced a variety of wine. In many foreign countries, wine growing is very much a part of the national heritage. Some of the wine produced is very good, and some of it is very good antifreeze. Remember, true wine is made only from the fermented juice of grapes.

I have tasted many alcoholic beverages called wine, like elderberry or plum wine, but these products are not wine in the true sense. I have tasted milk wine — my father used to represent the old priest up in Wasilla who made the stuff

(remember my antifreeze statement?). I have even tasted something called wood wine; it was a homemade product, and I am glad that it has remained a homemade product. I would be afraid of what would happen if any of it were to end up in the hands of some hostile government.

For those of you who tuned in because you saw the title German Wines, I am sorry for having taken so long to get to the subject. Frankly, I do not know how many more times I will get the chance to write so long about wine.

As many of you were aware, last month was October. In Germany, that means Oktoberfest. Here in Alaska, that means October. Regardless, since the Germans were celebrating, I thought it would be a good idea to discuss German wine.

While it does produce some red wine — mostly for in country consumption, Germany is noted for its white wines. These wines predominantly have been produced so that they may be drunk by themselves, not as an accompaniment to food. Although, this has never stopped anyone from drinking them with food. The reason why these wines are drunk this way is that German wines are traditionally sweeter than the white wines produced elsewhere. Germany's quality standards are gauged according to how much sugar is in a wine. The higher the quality, the higher the sugar content.

Lay people often complain that it seems that lawyers charge per length of word in describing a legal matter. The same might be said about the words on a German wine label. (If you look at the label description next to this article, you should see that despite the seemingly unpronounceable words, the information contained there on is fairly straight forward.) The quality of German wine is ranked in increasing quality as follows:

Tafelwein (table wine)

Landwein (land wine)

Quality wines

Qualitätswein bestimmter Anbauggebiete (QbA) (Quality wine of designated areas origin) this is the lesser of the two quality wines; its

sugar content may be enhanced by the addition of sugar.

Qualitätswein mit Prädikat (QmP) (Quality wine with extra attributes) This wine is made from fully ripened grapes and needs no additional sugar.

Under this category the following are the ascending quality of wines, in sugar and in price;

Kabinett (not kitchen)

Spätlese

Auslese

Beerenauslese

Trockenbeerenauslese

Eiswein is probably the most expensive German wine. It's name means "ice wine." It is made from grapes that have been allowed to fully ripen on the vine and are harvested only after the first frost, when the grapes have become frozen. Hence, the reason why the wine is called ice wine. Each grape is hand picked and only one drop of highly concentrated juice is produced. Hence, the reason why the wine can run near \$60.00 per 375 ml bottle.

Germans have begun to produce wines that are meant to be more dry and more suitable for consumption with a meal. These wines are called Trocken (very dry) and Halbtrocken (semi dry). If you look for these wines you should be able to find some. They may not stand up in comparison to the white wines you are accustomed to drinking. However, give them a try.

Germany has eleven wine growing regions, which will be described on the label. But I am only going to discuss two of these since the wines that I recently tasted came from these two regions. These two regions are Mosel, or Mosel-Saar-Ruwer, and Rheinhessen. Mosel-Saar-Ruwer gets its name from the tributaries of the Mosel river which meanders through the region. Mosel-Saar-Ruwer wines are primarily produced with Riesling (reece-ling) grapes which often results in a fruity flavor. The region is noted for the very steep vineyards that line the slaty valley in order to get as much sun as possible. Wines from here are generally low in alcohol — generally 8%, very

Continued on page 17



Samantha Slanders

Advice from the Heart

DEAR SAMANTHA: For years I have been reading your column but never dreamed that I would have occasion to write for advice. Now I have a problem and I need your help.

An associate who works in our law offices in Juneau began wearing braces several years ago. Recently, he reached the point where he now only has to wear a retainer. The problem is that he always takes his retainer out of his mouth when he gets to work and lays it on his desk — in plain sight and in front of anyone who might be present — even clients. It grosses me out and I don't know how to tell him. It has reached the point where no one even wants to go into his office. What do you think?

Grossed Out In Juneau

DEAR GROSSED OUT: I worked for a lady several years ago who would do the same thing, but always at lunch. She would sit down, take out her retainer, place it on the table in front of all of us, and order lunch. At first we would simply lay our napkins over the retainer so that we didn't have to stare at it while we ate. The problem, though, continued, and we finally reached a point where we had to do the right thing. During the course of the meal, we would secretly slip the retainer off of the table and onto the floor. On three different occasions, our friend found herself at the end of the meal crawling around under the table looking for her retainer. The last time this happened, the waitress stepped on it. From that point on

our friend continued to take her retainer out at lunch, but she would put it in her purse. I suggest you do the same thing with your associate. While he is out of the office, merely slip his retainer into the garbage can. Eventually he'll learn to either keep it in his mouth or in a more secure location.

Please write and let me know if this works.

SAMANTHA

DEAR SAMANTHA: There is a senior partner in our firm who claims to be able to see behind him. He says that we will never get away with doing anything behind his back. Is this possible?

Confused In Anchorage

DEAR CONFUSED: The only way I can imagine someone being able to see behind them is if they wear contacts and put them on backwards.

SAMANTHA

DEAR SAMANTHA: I am a professional woman with a business in Anchorage. I am still having difficulty dealing with the social rules that have developed as a result of the women's movement. Frequently when I enter doorways in large office buildings, I do so with men at my side or nearby. Time and time again, I am confronted with the question as to whether I should open the door for the gentleman near me or wait and allow him to open it. Also, what do I do when there are double doors and the gentleman opens the first door for me. Should I open the second door or wait for him to do that? If you can answer this one, I will write you

later about revolving doors.

Shut Out In Anchorage

DEAR SHUT OUT: Flexibility is the key here. You must act according to the situation in which you find yourself. If you are with a spouse or significant other, allow him to open the door for you if he is so inclined and if all else is equal. Otherwise, the first person to the door should open it. This rule of etiquette, though, should not be rigidly applied. For instance, if you are being chaste, open it quickly and then slam it behind you.

SAMANTHA

DEAR SAMANTHA: A matter of dispute around our office recently has to do with how often a person should shine his shoes. What do you think?

Curious In Homer

DEAR CURIOUS: I find a good rule of thumb is for one to shine one's shoes whenever one changes one's underwear or the oil in one's car. I personally do all three quarterly.

SAMANTHA

DEAR SAMANTHA:

I am a young Anchorage attorney, schooled in the East, with an anti-establishment leaning. I have a very close friend who recently moved to Alaska and is in the process of looking for work. He has a number of options available, but seems to be inclined to go with a large, private firm. I, on the other hand, believe that there are many more satisfying jobs available than this and have encouraged him to pursue public service. We argue

about this a lot, but I just can't seem to change his mind. If he goes "3-piece," I don't know if I could stand to be seen in public with him. What do you suggest?

Concerned in Anchorage


DEAR CONCERNED:

Your question, like so many others written by "friends," can be answered by reference to an old Alaska proverb:

You can pick your friends;

You can pick your nose;

But, you can't pick your friend's nose.



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• German wine

Continued from page 16

high acid, and are noted for their pleasant scent and delicacy.

The Rheinhessen region is found near the southern portion of the famous Rhine river. Producers here use less Riesling grapes than in Mosel-Saar-Ruwer. The producers tend to use more of the Muller-Thurgau grapes variety in their wines. This results in a more flowery tasting wine. (Remember that) Rheinhessen produces some less powerful full bodied wines. Most people associate this region with Liebfraumilch, a blend of medium dry wines meant to be drunk fairly early. Many a gentle nun has become blue from drinking this stuff.

Unfortunately for German wine lovers, the qualities of the vintages from several years ago have been less than noteworthy. However, to these people's relief, 1988 and 1989 have the markings of being exceedingly good. The blend of sugar and acid present in these vintages should allow these wines to mature in 18-20 years into unbelievable wines.

German wines, unlike French wines, can still be purchased at relatively modest prices. You can still pick up a decent bottle of German wine for around \$11.00.

As I mentioned, I recently tasted some German wines from the 1989

vintage. These nine wines varied in price as well as quality. The least expensive wine was \$11.00 and the most was \$60.00 for a 375 ml bottle. The first wine was a RUDOLPH MULLER 1989 Piesporter Treppchen Kabinett from the middle Mosel region. It had a light taste of green apples. By this I do not mean it tasted like BOONE'S FARM FORMALDEHYDE GREEN APPLE. I mean that it would be pleasant to drink in some place where there is a warmer fall season. The next wine was a VON HOEVEL 1989 Oberemmel Huette Kabinett; this was also from Mosel. This wine was predominantly Riesling and fermented and matured in 100 percent oaken kegs (not at the local liquor store). Even though this is a rather haughty description, I personally thought the wine, at this age, was much too strong and had a stable flavor to it (yes, where they keep horses). The third wine was GUNDERLOCH 1989 Nackenheimer Rothenberg Kabinett from Rheinhessen. This wine was a bit more mellow, you could probably enjoy drinking it instead of ordering a German beer. The fourth wine was EGON MULLER 1989 Scharzhofberger Kabinett and was from Mosel-Saar. This wine is produced by one of the more noted

German wine producers and has the potential for developing into an excellent wine in a few years. However, at this point, I would hold off on ordering it but I would keep it in mind. The fifth (and I will testify) was DR. FISCHER 1989 Ockfener Bockstein Kabinett from Mosel-Saar. It seems that a lot of doctors in Germany have taken up wine producing. I found that this wine was typical of German wines: it was quite sweet, too sweet for my taste. The sixth wine was a grade above the rest, I mean that it was higher on the German scale of quality than the others. This wine MILZ 1989 Trittenhiemer Felsenkopf Spatlese from the Middle Mosel. It was apparent that this wine was higher on the German quality scale. It was what I describe, using the Italian phrase, as tutti frutti. I am not a fan of overly fruity wines, but if you are, this is the wine for you. The seventh wine was also a Spatlese, but instead of fruit, this wine tasted like a cream soda. I should have probably poured the seventh wine over the sixth for berries and cream wine cooler. This wine was WEINSPRUM 1989 Waldracher Sonnenberg Spatlese from Mosel. The eighth wine was again a higher quality wine; it had a higher sugar content than the rest. This was

JOH. JOS. PRUM 1989 Graacher Himmelreich Auslese from Middle Mosel. This wine did appear to be a higher quality wine, however, it had some strong flavors that indicate that it should probably remain cellared for a few more years before fully enjoying it. Finally, the last wine was MONCHHOF 1989 Urziger Wurzgarten Beernauslese from Middle Mosel. This little bottle of wine is priced at retail for \$60.00. It is an ice wine; as I described above, this wine is not produced in large quantities because of the source of the juice. The wine was very good. It had definite sweetness, but it was not over powering. This wine would go very well as an apertif or you might try it as an accompaniment to desserts.

I am not as well versed as many wine stewards, but I still like to think of myself as an oenophile. However, I do not go around revealing that about myself because I am afraid somebody in the government may try to take away my NEA grant. I hope that in some minute way this rambling bit of wine talk may have helped someone learn something about wines.

A Member of the Order of the Quaff Reports.

Quality of life in Petersburg = Tante's bakery

BY DAN BRANCH

Last fall I packed my brief case and headed up to Petersburg. Judge Jahnke was in that town to conduct the superior court calendar and I had some business before him. I was looking forward to the trip. Little did I know that it would be a lesson in the quality of life.

Petersburg sits on Mitkof Island about one ferry stop away from Juneau. A bunch of Norwegian fishermen founded the town on Mitkof because it was close to salmon, black cod and ice. They found the fish in the waters around the island. The ice came from icebergs calved by the Le Conte Glacier. With help from the glacier these pioneer fishermen delivered their catch in Seattle in marketable condition.

Petersburg is still a Norwegian fishing town. Families with names like Nordgren and Hammer live in crisp wood frame houses. The homes sit on streets named after famous ships. The Sons of Norway Hall, on Hammer Slough, is one center of the town's social life. Rosemaling decorates the downtown shops. Even the local utilities office has the traditional Norwe-

gian designs painted on its shutters.

Petersburg still celebrates Norwegian Independence Day each May. During the festivities the town fills up with beautiful women dressed in Scandinavian folk dresses and Vikings calling themselves "Thor" and "Igor." The Vikings run around town capturing female tourists and spreading good spirit throughout the community.

Former Ketchikan District Attorney Mark Ells once donned the Viking garb. He soon wore himself out spreading good spirit and had to hang up his shield.

I like visiting Petersburg. It sits at the North end of beautiful Wrangell Narrows and you can see Devil's Thumb Mountain from town on a clear day. Petersburg's Norwegian flavor adds to the fun but the town's best offering has nothing to do with Scandinavia. It is a European bakery named "Tante's." Nothing in Ketchikan compares with it. It enhances the quality of life in Petersburg. I was looking for a chance to sample once again some of Tante's treats.

The flight up to Petersburg was uneventful and after gathering up

my luggage at the airport, I headed downtown. My court cases were not scheduled to start for awhile so I went directly to Tante's for a little sustenance. Nothing could have prepared me for what I found there. The shop was locked tight and a "Closed" sign hung in the window. Where were the baskets of freshly baked baguettes and the platefuls of croissant? They were gone.

Where were the Swedish cookies and poppy seed buns? I grabbed a passerby and asked for an explanation. "The baker got tired of running the place," he said. "So she closed down the store."

With those simple words ringing in my ears I walked over to the courthouse. Instead of a raspberry croissant, I would have to digest the fact that the closest blueberry muffin was 20 miles away in Wrangell.

Many of the Petersburg residents shared my concern over the demise of Tante's. One lady told me she hauled a shopping bag of bake goods out of the store the day it closed. She agreed that the quality of life in Petersburg dipped a bit when Tante's closed its door but

asked me to take heart in the latest town rumor. Apparently, the woman responsible for the wonderful Tante's goodies will bake new treats in her house. Another owner plans on reopening the bakery and retailing "Tante style" baked goods. This rumor sounded like a sad attempt to keep community spirits high but I decided to take a wait and see approach to the whole thing. It turns out that the rumor is true.

Since I returned to Ketchikan, Tante's has reopened under new management. The gifted baker is still out of town. When she returns, her creations will once again grace the shelves of Tante's and the quality of life in Petersburg may return to normal. We shall see. In the meantime I vow never again to take fine baked goods for granted. Never underestimate the effect a good chocolate torte can have on the quality of life.



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For more information on the Lawyer Referral Service, please contact Shalese Dayton at the Bar office at 272-7469.



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ALASKA BAR ASSOCIATION
FALL/WINTER 1990-1991 CALENDAR

1990 PROGRAMS

#46 Nov 28 1.8 cles	Off the Record - ANCHORAGE Bench/Bar Relations: The Good, The Bad & The Ugly	Hotel Captain Cook-Anchorage
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1991 PROGRAMS

#02 Jan 24 cles tba	FDIC and Resolution Trust Corp.	Hotel Captain Cook-Anchorage
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#07 Feb 22 cles tba	Environmental Law Issues	Hotel Captain Cook-Anchorage
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#08 Mar 1 1:30pm-4pm cles tba	Off the Record - FAIRBANKS	Regency Hotel- FAIRBANKS
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#01 Mar 12 & 13 2 Half Days 7.2 cles (These dates fall during the spring school vacation for the Anchorage and Fairbanks School Districts.)	HAWAII CLE: Making and Meeting Objections -- Faculty: Barbara Caulfield, NITA Trainer	Turtle Bay Hilton-Oahu
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#03 Mar 21 & 22 cles tba	Child in Need of Aid & Juvenile Delinquency Issues	Anchorage Hilton Hotel
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#04 April 26 cles tba	Employment Law: Wrongful Discharge	Sheraton Anchorage Hotel
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#09 May 10 Half Day cles tba	Bankruptcy & Divorce	Anchorage Hilton Hotel
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#05a Sep 19 9am-2pm	Professional Responsibility- KETCHIKAN	Cape Fox Hotel- KETCHIKAN
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#05b Sep 20 9am-4pm	Professional Responsibility- ANCHORAGE	ANCHORAGE Hilton Hotel
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#06 Nov 1 & 2 2 full days	Bridge The Gap	Anchorage Hilton Hotel
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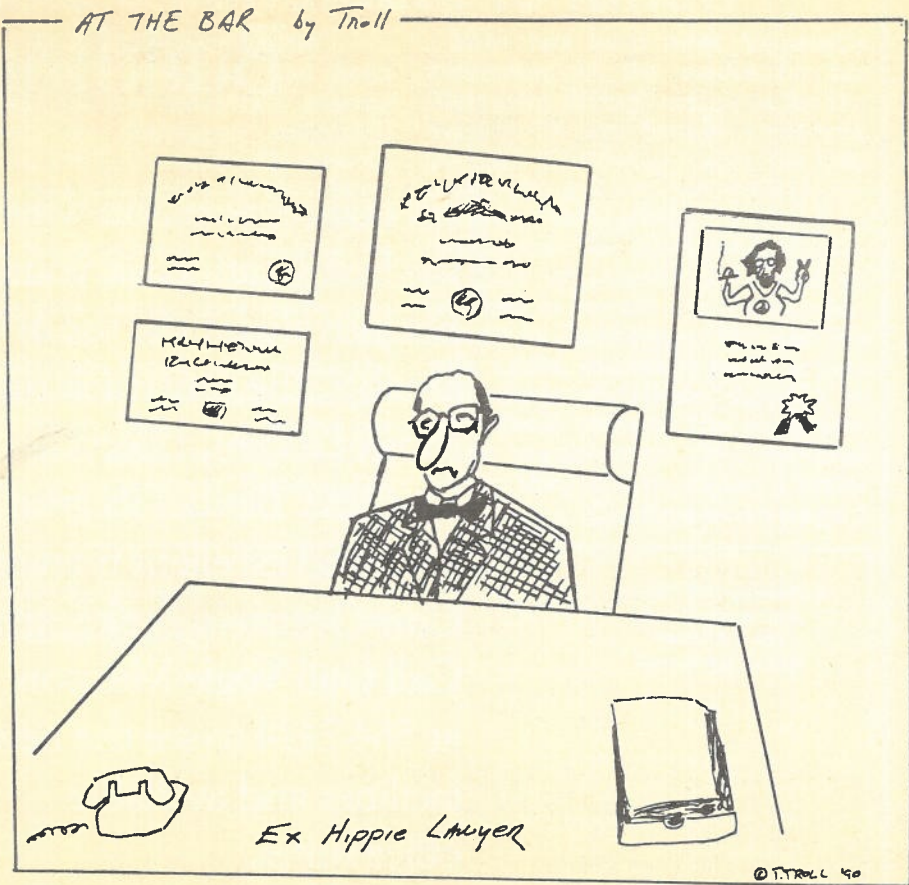
For further information on any of the above programs, contact the Alaska Bar Association, PO Box 100279, Anchorage, AK 99510, phone 907-272-7469, fax 907-272-2932.

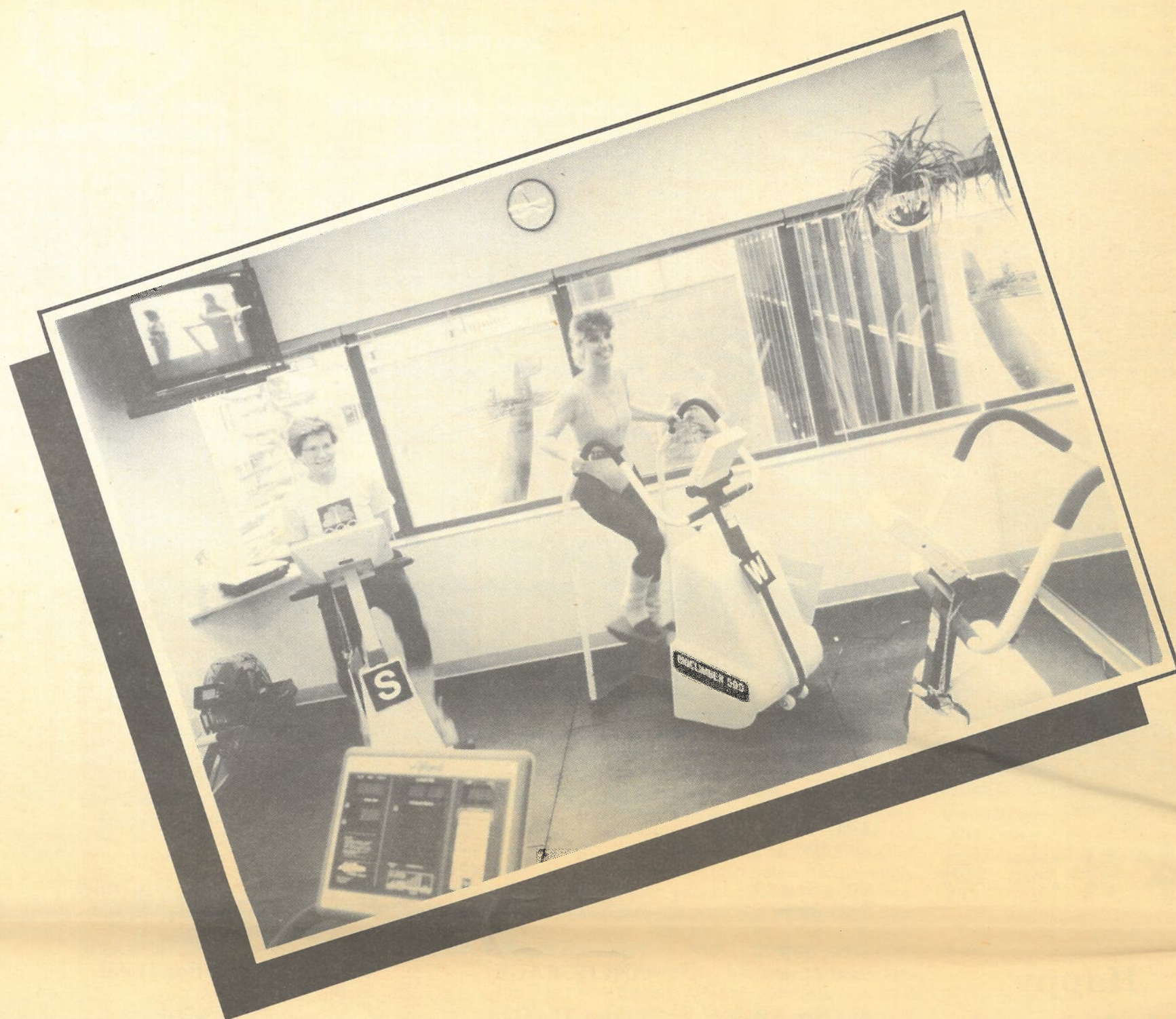
WHERE THE TROUBLES ALL BEGAN

First into nothing,
A heaviness came
And sank, until
The din from its passage died.
It was replaced by
THE SOUND OF THE BEGINNING
A noise not unlike
God's first handclap,
Or the crackle between stations;
Depending entirely upon
Where you stand.
Or stood.

Harry Branson

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