

The last voyage of the floating court

By JAMES H. CHENOWETH

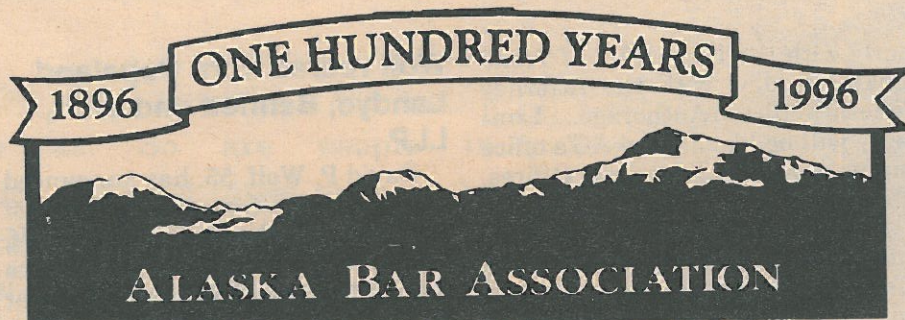
The following article is from "Down Darkness Wide," a book being written by James Chenoweth about his career as a lawman in Territorial Alaska. This chapter is reprinted with his permission. Chenoweth started his law enforcement career with the Anchorage Police Department. From 1954-1962, he was the Chief Deputy U.S. Marshall in the 3rd Judicial Division (later District). He noted that he was the last Chief Deputy in the territory of Alaska and with statehood he became the first Chief Deputy.

Justice isn't rooted to any single location. She may wear a blind fold (as she is traditionally depicted) but she has always been able to travel. Monarchs took their own brand of justice with them as they moved from castle to castle. Our own circuit judges lugged their law books from town to town. The usual practice of deputy marshals in the southwest was for four or five to go out "on the scout" together, accompanied by a portable jail-wagon. Paid six cents for every mile and two dollars for every arrest, they hunted for men on the run, suspicious travelers, stolen horses or cattle, contraband and whiskey.

Alaska put its own spin on the way justice traveled around. In 1900 James Wickersham was appointed to one of two new judgeships in Alaska. His new post was at Eagle, near the Canadian border, a small settlement that had grown up around a new army post; Fort Egbert. The power of Territorial Judges actually exceeded those of Territorial Governors. In addition to handling court cases, Alaskan judges issued liquor licenses, supervised elections and the formation of town governments, approved bond issues for schools, appointed U.S. Commissioners and performed a variety of administrative duties, including passing judgment on the qualifications of persons who wanted to practice law.

(One circuit judge in Alaska-I think it was Judge Dimond-instructed the two attorneys traveling with him out in the bush to test an applicant's knowledge of the law. Amid much conviviality in the applicant's cabin, their mission was forgotten until late in the evening at which time they asked the applicant what he knew about the law. His reply was, "Nothing". Puzzled, they asked why he wanted to become a lawyer. He replied that he thought it would be nice just to say he was one. They left his cabin. The next day the attorneys reported to the judge that when they questioned the applicant about his knowledge of the law, he had answered every question truthfully and accurately. The judge granted the application and the miner became a lawyer.)

Back to Judge Wickersham, who felt there wasn't much to keep him busy in Eagle. Within the 300,000 square miles of his district, there were only 1,500 whites and 4,000 natives. The routine business was small and not likely to increase. Wickersham suggested to Washington that he could assist judges in



other Alaskan divisions that were overburdened with litigation. He was instructed to hold a term of court at Unalaska if the judge for that area had no objection. He started his trip on Aug. 3, 1901.

Unalaska is an island near the outer tip of the Alaska Peninsula. The judge's travel route took him first to Nome where he learned that one of the cases awaiting him at Unalaska involved the murder of several miners, and that some witnesses were officers and sailors on U.S. Revenue Cutters stationed at Unalaska who could not be called away from their vessels. The court would have to go to them.

Judge Wickersham also learned at Nome that there were only "a few competent jurors at Unalaska;" it would be impossible to get enough qualified persons there to act as

grand jurors and trial jurors.

Already comfortable with the need for practical solutions in Alaska, Judge Wickersham decided to select both juries from the people in Nome. He instructed the United States marshal to gather in 16 men as grand jurors and another 18 to serve as trial jurors. The court party now included himself, the deputy clerk of the court, the U. S. marshal and two deputies, an assistant U. S. attorney, and 34 jurors. Judge Wickersham herded everyone aboard the steamer *St. Paul*. They sailed at midnight for Unalaska, 750 miles away. It was Alaska's first "floating court".

Judge Wickersham had set a precedent. Using the U. S. Revenue Marine for transportation in the early years, court personnel heard litigation and exercised judicial powers in many villages which had previously been beyond reach. Later, the U. S. Coast Guard replaced the Revenue Marines and began a periodic Bering Sea Patrol to bring medical and dental help to coastal villages. Included in its operational mission was a high priority for law enforcement. Occasionally, court personnel traveled along as guests, continuing the "floating court" tradition of handling judicial matters in remote coastal villages.

With statehood starting to brighten the horizon, U.S. Marshall Fred Williamson (3rd Judicial Division) thought the summer of 1957 might be the last time a federal "floating court" would put to sea. He discussed the possibility with Bill Plummer, who agreed to go along. In the orders for the Bering Sea Patrol, cut by the Coast Guard on May 24th, the captain of the Coast Guard Cutter *Wachusett* had been appointed

U.S. Commissioner, but arrangements were made for Bill and Fred, as U. S. Attorney and U. S. Marshal, to travel with the *Wachusett* on its scheduled patrol during July and August. Their presence made it a "court cruise".

Fred, bless him, had a conscience. While I was hard at work testifying in a courtmartial taking place at a military post in Washington, he had been busy recovering stolen property aboard a ship at sea. It was pretty exciting stuff. Someone had boarded a temporarily beached boat at Whittier and stolen a propeller shaft, lifeboat, and expensive electronic equipment. We identified the suspect vessel as the *Barwell*, which was operating out of Amchitka Island west of Adak.

Fred and Deputy Ed Dolan were aboard the Coast Guard Cutter *Clover* for four days, hunting the *Barwell*. Located at last, there followed a "hot pursuit" chase during which a shot had to be fired across the fleeing vessel's bow before it could be boarded near Adak, the occupants arrested, and the stolen property recovered. "Heave to, and prepare to be boarded!"

It was a sea chase worth remembering and Fred had been part of it. Possibly he felt he was hogging the excitement by immediately following up that nautical adventure with a "floating court" voyage.

At any rate, when I got back to Anchorage, Fred told me he had changed his mind about going on the *Wachusett*, and had arranged for me to take his place. I told (my wife) Dennie of my unexpected assignment. She said she'd struggle valiantly to manage without me for awhile and suggested that in spite of my well-established reputation for avoiding hazardous situations, I should attempt to keep a life jacket somewhere within reach. Because this would be a once-in-a-lifetime opportunity, I borrowed a 16mm movie camera from attorney Stan McCutcheon, bought all the film available, changed my socks, and was ready to go!

On the 4th of July, Deputy Pat Wellington drove me down to Seward, his post-of duty. The *Wachusett* was already tied up at the Standard Oil dock, having traveled up the Alaskan coast from Seattle. Its ultimate destination was Barrow, the northernmost community in the United States, but our route between Seward and Barrow would depend on whatever duties arose during the patrol.

I boarded about 5:30 p.m. and was greeted by Lt. Liverance who had already arranged for me to berth with the Chief Petty Officers. After settling in, I went ashore to prow around Seward. Heard rumbles of a

big gambling game, which Pat later found in the Flamingo Club. Alley B was working.

Returning to the ship around 8:00 p.m., I met the Executive Officer, David Haislip, who introduced me in turn to Captain G. T. Applegate, the Commanding Officer. They welcomed me warmly, extended wardroom privileges (whatever that meant), and gave me the freedom of the ship. The next day, overcast and windy, I spent some time ashore with Pat, checking on the theft of 200 tons of scrap metal. Returned aboard the *Wachusett* around 2:00 p.m. Shortly afterward, we got underway for Kodiak. Without the U.S. Attorney aboard.

The name of our ship was not unknown in Alaskan history. In 1882 the Navy ordered the steam warship, the U.S.S. *Wachusett*, to the Gulf of Alaska, believing that its extreme mobility would allow it to reach any riotous area. The Navy's real goal was to justify withdrawing marines and seamen who had been policing the Juneau mining area. After a miner's court in Juneau sentenced two Indians to death, the too-late arrival of the *Wachusett* supported Alaska's plea for the need to establish a system of courts and law enforcement officers in Alaska. That plea to Washington went unanswered for many years.

The name might be the same, but the ship undoubtedly looked different. The current version was a bit shorter than a football field. Painted white, it lacked the rakish red stripe on the hull that Coast Guard vessels now sport. The top of the tail mast bristled with electronic gear and surf boats were lashed snugly to davits on both sides. There were about 160 members in the ship's crew.

We docked in Kodiak the next morning where I was met by Vern Carnahan of the Office of Naval Intelligence. The Navy had a busy port in Kodiak, generating the usual problems

surrounding any military installation. Vern and I had coordinated on several matters involving both naval and civilian personnel. He gave me a lift into town and since we had no deputy stationed there at the time, I opened up our office for business. It was Saturday, but I reached Bill Plummer by phone. "Be there Tuesday for sure, Jim," and that's the word I passed on to the Executive Officer, David Haislip.

On Monday, I had to tell him that Bill cancelled his travel plans. Now Haislip, apparently the legal officer aboard, would have to prosecute any crimes I brought to his attention and Captain Applegate would be the presiding magistrate. Which left me as the sole surviving civilian of the floating court during its final voyage!

Due to leave on Wednesday, I spent the intervening time talking with Lt. Commander "Robbie" Robinson at the naval base, lunching with Vern Carnahan, chatting with pro-gambling advocate Frank Irick (who was unhappy to learn I had been in town since Friday without him having known it), and discussing with Commissioner Mabel Fenner the jurisdictional problems at new

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White Alice communication sites. I suggested she take the position that White Alice sites are military reservations and crimes on those sites are federal crimes. I passed on to Treasury Agent Dave Carpenter information about marijuana parties being set up in Kodiak. All just routine stuff.

Tradition was upheld the next morning as a naval band braved fog and an overcast sky to play us away from the dock. I got a guided tour of the ship and watched the gun drill after lunch. A storm warning predicted weather "rough to very rough."

Two civilians also had joined us, Fish and Wildlife agents en route to St. Matthews Island to estimate the size of a reindeer herd there and evaluate the range necessary to support it. The herd was imported there as emergency rations by the Coast Guard during World War II and had run wild since then. Learning that Nunivak Island was a future port-of-call for us, they told me the island was a game sanctuary for musk oxen. Originally 25 in number, they had

been captured by a Norwegian group, taken to Norway, shipped to New York, then to Seward, Alaska, via Seattle and finally wound up in Fairbanks as part of a domestication experiment. Not one animal was lost during the trip. When funds ran out for the experiment, they were shipped to Nunivak.

During the afternoon the sea became rough and choppy. For sailors, the Bering Sea is a very tough body of water. It is relatively shallow; consequently the ships that sail there must have a shallow draft and, therefore, a tendency to roll in bad weather. In the Bering Sea, a cold current from the Arctic collides with a warm current from the Pacific. The clash results in heavy fogs and violent storms. During storms, waves may reach over 40 feet in height. Ice is a constant menace and ships generally entered the sea only from May to October.

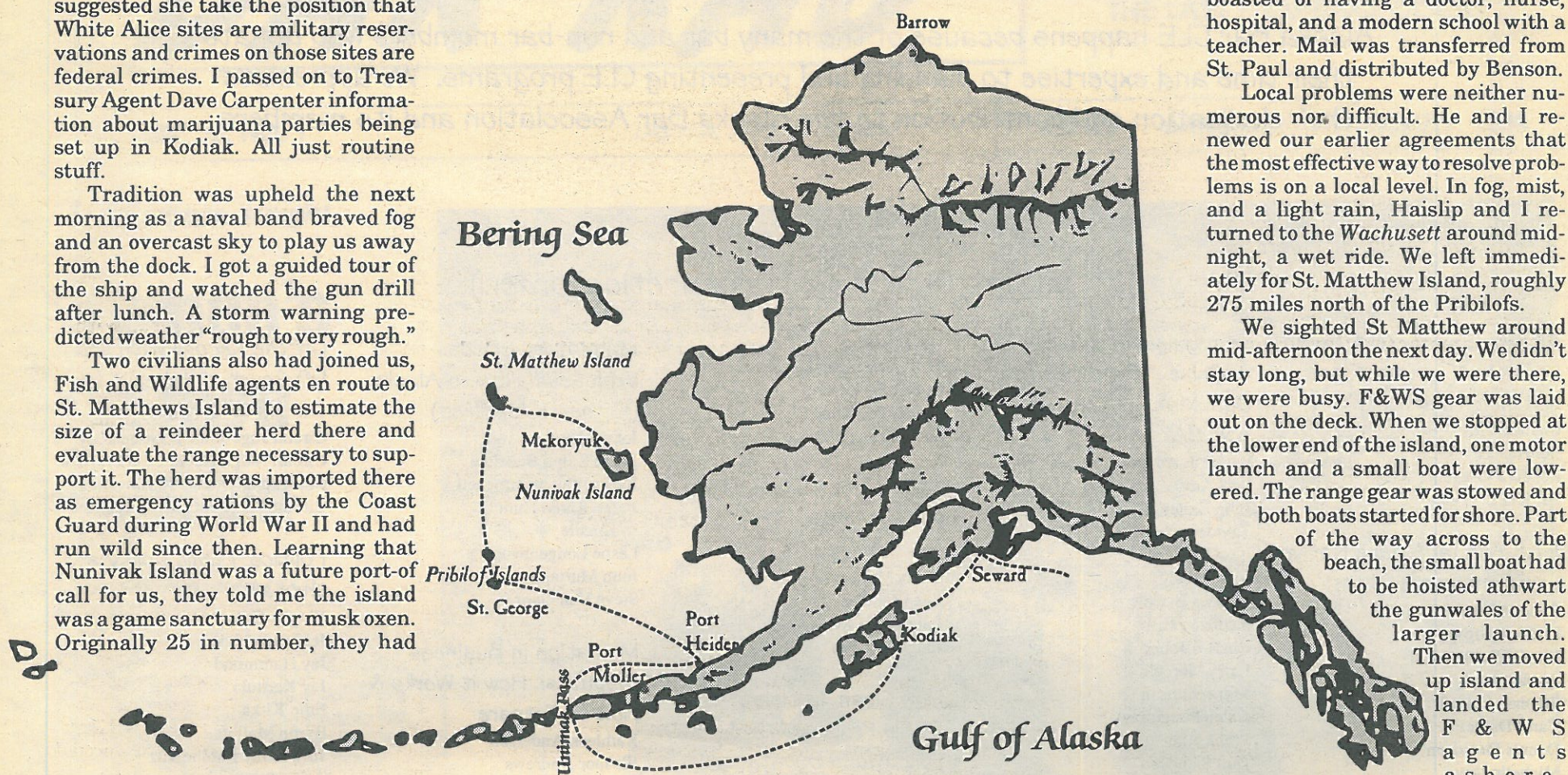
That night the storm grew, moving (as they told me) into a "class 5 status". Salt spray everywhere! That didn't seem to bother anyone but me. Everything not lashed down went flying. It was casually suggested that I wouldn't be in anyone's way if I decided to pass the time braced in my bunk. I did, and with some difficulty avoided being pitched out. Dawn brought no improvement, but by noon the wind had dwindled to eight knots. According to my log, the Captain had been seasick so I decided I wouldn't feel too embarrassed if I succumbed. The Chiefs encouraged me to eat. I reluctantly took their advice and began to think I might live.

With my optimistic outlook somewhat restored, Chief DeShaw opened radio contacts with villages.

Chignik had no self government, no schoolteacher, no postmaster, no town ordinances, and no landing strip. With a population of 250 Natives, 10 whites, and two canneries, the tribal chief consulted cannery officials and then made whatever decisions were necessary.

Perryville was even smaller, with a total population of 120 Natives.

THE ROUTE OF THE U.S.S. WACHUSETT



Shifted here by the U.S. government from where they had lived in the Katmai area, they hung on to their earlier culture and retained their Native government, headed by a tribal chief. No way in or out except by boat.

With a population of about 200, Sand Point had a husband-and-wife team of schoolteachers, as well as a postmistress. A landing strip was being built. Apparently there were no formal ordinances or any governing body, but Sand Point was "in the loop" as the relay village for radio contact with the surrounding area.

Our sociological research ended abruptly. The radio was needed on a stand-by basis. A fishing vessel called *Sharasan* had left Port Heiden four days earlier heading for Port Moller but had not been heard from since then. We began to sweep for any kind of distress call.

By the next morning the storm had eased down but a dense fog swirled in all around us. I hadn't seen a speck of land since we left Kodiak. We were moving north through Unimak Pass, at the eastern end of the Aleutian Islands and right next door to where Judge Wickersham had taken his first floating court.

Leaving the Gulf of Alaska behind us, we were entering the Bering Sea. Around the corner and just to the right, we had intended to land at Sarichef, but ground swells made that impossible. Just before noon, we swung northeast and at four in the morning, anchored outside of Port Heiden. We had joined the search for the *Sharasan*.

By breakfast, the sea was smooth. The sky was a brilliant blue with patches of fog still hugging the water. Mid-morning, a Coast Guard plane radioed it had located the *Sharasan* about 45 miles away from us. We up-anchored and headed out.

Two hours later, we gently coasted up to where the *Sharasan* drifted slowly in a fog bank. Fishing nets still hung limply over the stern. Our surf boat was lowered and its crew

boarded the *Sharasan*. I watched as a body was moved into the surf boat and brought back to the *Wachusett*. It turned out that the "body" was Fred Sundean, the sole occupant of the *Sharasan*, was still alive. Hoisted aboard the cutter in a basket stretcher, he was treated for food poisoning. His radio had conked out and whatever he had eaten made him too sick to repair the radio. Towing his boat toward Port Moller, we were met by another fishing vessel, the *Fare Well*. Sundean and his boat were both handed over to the *Fare Well*. (In the process I learned from the *Fare Well* crew that fishing had been terrible. They had been out two months and had just barely made their expenses. Might be slim pickings in the coastal villages.)

By 8:00 p.m., we were headed for St. George Island in the Pribilofs. The fog closed in around us again.

The Pribilofs are a small group of islands about 180 miles north of the Aleutians. They are also called the Fur Seal Islands because they are the world's largest fur seal sanctuary and the breeding grounds for northern fur seals from April to November.

The indiscriminate slaughtering of seals had earlier made the Pribilofs a focal point of international controversy. In the 1880s, overkill by several nations severely depleted the seal herds so the United States Bureau of Fisheries began direct supervision of sealing in 1910. During the year of our patrol, the United States, Canada, Japan, and Russia created the North Pacific Fur Seal Commission to further protect the depleted seal herds which have since grown from about 125 thousand to 1,500 thousand. The two major islands in the Pribilofs are St. George and St. Paul.

We anchored at St. George about 7:30 on the evening of July 14th. I went ashore with Dave Haislip and spent a couple of hours talking with the Superintendent, Dan Benson, who was also the U.S. Commissioner

at St. George. With a population of 200 Natives and 25 whites, St. George boasted of having a doctor, nurse, hospital, and a modern school with a teacher. Mail was transferred from St. Paul and distributed by Benson.

Local problems were neither numerous nor difficult. He and I renewed our earlier agreements that the most effective way to resolve problems is on a local level. In fog, mist, and a light rain, Haislip and I returned to the *Wachusett* around midnight, a wet ride. We left immediately for St. Matthew Island, roughly 275 miles north of the Pribilofs.

We sighted St. Matthew around mid-afternoon the next day. We didn't stay long, but while we were there, we were busy. F&WS gear was laid out on the deck. When we stopped at the lower end of the island, one motor launch and a small boat were lowered. The range gear was stowed and both boats started for shore. Part

of the way across to the beach, the small boat had to be hoisted athwart the gunwales of the larger launch.

Then we moved up island and landed the F & W S agents ashore, along with

two boatloads of gear. The agents would remain on the island until the *Wachusett* picked them up later. Since the island was uninhabited, during that period the agents would have to fend for themselves. No McDonalds!

While they were digging in, we headed for Mekoryuk on Nunivak Island which is east of St. Matthew and fairly close to the Alaskan mainland. Mekoryuk lies on the north side of the island. (Just in case you're interested, the village on the extreme southern side is Ingloothlogramiut.) Mekoryuk was our first major stop and the Coast Guard's first real opportunity since leaving Seward to do what they came to do: provide medical and dental help to coastal villages. So we stayed a couple of days.

Mekoryuk was a small but fairly prosperous village with about 200 residents, and since most of them were Natives, it was governed by a tribal council, under a constitution and bylaws. Fifty-eight children attended the local school, (grades 1-8), taught by Paul Estle and his wife. Though he had no formal medical training, Paul also handled the town's first-aid problems. People lived largely on reindeer meat and fish; their income was derived mostly by selling reindeer meat in Nome and Bethel at 40 cents a pound.

A landing strip was being built on the bed of a dried-up lake about four miles from the village. Many high-powered outboard motor boats scooted around, driven as though they were floating hot-rods. Crime was minimal with nothing pending at the time. Most offenses were sex violations, which the tribal council handled by admonition. The presence of a National Guard unit, led by the local minister, may have helped to keep things on an even keel.

I inquired about the musk oxen herd, mentioned earlier by the Fish and Wildlife agents. The herd roamed the south part of the island and had grown to about 125 by now, but I never got a chance to see them.

(Next issue: the *Wachusett* continues her journey)