

## SERVING JUSTICE SINCE STATEHOOD



**LEFT:** The original eight judges of the Alaska Superior Court leave Juneau for judicial training in New Jersey on November 29, 1959. Front row, L-R—Judge James A. von der Heydt; Judge Edward V. Davis; Judge James M. Fitzgerald; & Judge Walter E. Walsh. Back row, L-R—Judge J. Earl Cooper, Judge Everett W. Hepp; Judge Hubert A. Gilbert, and Judge Harry O. Arend. **RIGHT:** L-R—U.S. District Court Senior Judges James A. von der Heydt and James M. Fitzgerald in front of the Federal Building & U.S. Courthouse in Anchorage, April 2000.

### Honoring 40 Years of Service By Two Judges from Alaska's First Court

One of the foremost tasks for the new State of Alaska was to establish independent trial courts to replace the territorial system of justice that had been in place for decades. On November 9, 1959, Alaska's first Governor, William A. Egan, appointed eight territorial lawyers to the new Alaska Superior Court. They were sworn in on November 27, 1959, and formally opened the new Court in February 1960. Now, over forty years later, two of the original judges—Judge James M. Fitzgerald and Judge James A. von der Heydt—continue in their judicial roles as Senior Judges for the U.S. District Court for Alaska. On the 40th Anniversary of the Alaska Superior Court, the Alaska Court System and Alaska Bar Association are honored to recognize and thank Judge Fitzgerald and Judge von der Heydt for their 40 years of service to the legal community, the state and federal judicial systems, and the people of Alaska.

#### ALASKA BAR ASSOCIATION ANNUAL CONVENTION & ALASKA JUDICIAL CONFERENCE

Awards Banquet Thursday, May 18, 2000 Anchorage, Alaska

## HON. JAMES M. FITZGERALD

James M. Fitzgerald was born in Portland, Oregon, on October 7, 1920. He attended Jefferson High School in Portland, where he says he “was not known for my academic ability...I managed to get through primarily on athletic prowess.” He entered the University of Oregon in the fall of 1941 with the primary intent of playing football, and was soon recruited away by Willamette University’s coach for a special trip to Hawaii. “We landed on December 3, 1941,” he remembers, “played on December 6, and the Japanese bombed Pearl Harbor on the 7<sup>th</sup>.” Soon afterward, Fitzgerald left college to join the Marine Corps, where he served in the Southwest Pacific during World War II as an aerial gunner in a torpedo bomber squadron.

Fitzgerald returned to Portland after leaving the service in 1946, where he took a job with the Fire Department. He soon returned to college, and ultimately entered law school at Willamette University, where he received his J.D. in 1951. Filled with the Gold Rush stories of his father, who had staked claims near Fairbanks at the turn of the century, Fitzgerald and his wife, Karin, left for Alaska the day he completed the Oregon Bar. They drove their Model A, named “Little Nell,” over the Alaska Highway, which was then little more than a rutted and weed-filled track called the “Caribou Trail.” Because of a 90-day residency requirement before he could practice law, Fitzgerald spent several months working in a lumber mill and on a fishing tender before deciding to spend a year doing graduate work in public affairs at the University of Washington.

In 1952, the Fitzgeralds again moved to Alaska, this time with their infant son, Dennis. From 1952-54, Fitzgerald served as Assistant U.S. Attorney in Ketchikan. In 1954, he and his family moved to Anchorage, where he continued to serve the U.S. Attorney’s office. From 1956-1959, Fitzgerald was Anchorage’s City Attorney. Early in 1959, he and his family made plans to move to Fairbanks, where he was slated to join the law firm of McNealy, Merdes, Camarot and Fitzgerald. However, the coming of Statehood meant other career moves were in store.

In April 1959, Fitzgerald resigned the Anchorage City Attorney position to take a temporary position with the new State of Alaska as Governor William Egan’s special legal counsel for fisheries. In August 1959, Governor Egan appointed him as the State of Alaska’s first Commissioner of Public Safety. Fitzgerald served in this post barely two months before Egan tapped him again—this time with an appointment to one of the eight original judgeships on the Alaska Superior Court. Judge Fitzgerald served on the Superior Court bench in Anchorage for thirteen years, during which time he built a reputation for fairness, integrity, and hard work. When he was named in 1965 to chair a citizen’s committee charged with investigating unauthorized wiretapping, the Anchorage Daily News applauded the appointment as going to “(o)ne of the community’s most respected citizens...(t)he people of Anchorage...can all rest assured that a thoroughly just solution will be forthcoming.” Judge Fitzgerald and Karin Fitzgerald raised four children in Anchorage during his years on the Superior Court—Dennis, Denise, Debra and Kevin. In what surely could be considered a great testament to Judge Fitzgerald’s love of his profession, today all of his children have strong ties to the legal community.

In December 1972, Governor Egan appointed Fitzgerald to the Alaska Supreme Court. The Anchorage Daily Times lauded this as “a fine choice,” and the Anchorage Daily News described Fitzgerald as “one of the ablest jurists our state has known.” He continued to serve the Alaska Court System until February 1975, when he took the oath of office as U.S. District Court Judge for the District of Alaska, a position to which President Gerald Ford nominated him in late 1974. Fitzgerald’s fifteen years of service to the Alaska Court System marked the longest state tenure of the original eight Superior Court Judges appointed in 1959. Today, he continues to serve actively on the federal bench, over forty years after beginning his sterling judicial career.



James M. Fitzgerald (3rd from Left) with colleagues at the Anchorage City Attorney's office, circa. 1956. L-R: Jack Cole, Ardeth Rae Jones, Fitzgerald, Sydney Dodge, Gene Hack, Madge Pheris, L. Eugene Williams.



James M. Fitzgerald is sworn in as Alaska's first Commissioner of Public Safety in 1959, shortly before his appointment to the Superior Court. With him are Alaska Supreme Court Justice John H. Dimond and Governor William Egan.



Judge Fitzgerald during his tenure on the Anchorage Superior Court, circa. mid 1960's.



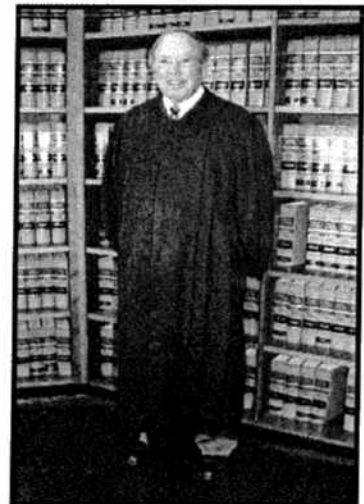
Justice Fitzgerald was appointed to the Alaska Supreme Court by Governor William Egan on December 13, 1972. L: He is sworn in by Chief Justice Jay A. Rabinowitz. R: He celebrates with his wife Karin Fitzgerald.



In April 1979, U.S. District Court Judge Fitzgerald traveled to Nome with his staff for a trial. This photo with long-time Secretary Sydney Dodge appeared on the cover of the *Nome Nugget*.



Karin Fitzgerald and Judge Fitzgerald at the May 1998 Convention of the Alaska Bar Association in Girdwood.



Senior Judge James M. Fitzgerald in his chambers at the U.S. Courthouse in Anchorage, April 2000.

## HON. JAMES A. VON DER HEYDT

James A. von der Heydt was born in Miles City, Montana, on July 15, 1919. Fascinated by Alaska throughout his youth, he headed north shortly after receiving his college degree at Albion College in Michigan in 1942. Arriving in Valdez aboard the steamship *Oswego* in 1943, he quickly landed a construction job in the war effort, helping build a steel bridge over the Tanana River near Tok for the Alaska Highway. When World War II ended, he was offered the job of Deputy U.S. Marshall in Nome, where he served from 1945-48. During this time, he was responsible for law enforcement in a region that spanned from Hooper Bay to Barter Island, and he traveled extensively by dog team, umiak (native skin boat), or bush plane—"whatever method was needed to get me where I had to go."

Although von der Heydt had originally planned to become a doctor, he reconsidered during his years in Nome. Instead of medical school, he entered Northwestern University Law School in 1948, where he received his J.D. degree in 1951. Shortly after graduation, he married his college sweetheart, Verna, in Seattle, and they returned together to Nome. There, he served briefly as U.S. Commissioner for the U.S. District Court until President Harry Truman appointed him U.S. Attorney—a position he held from 1951-53. From 1953-1959, von der Heydt maintained a private law office in Nome, where he sometimes received mail addressed simply to "Lawyer, Nome, Alaska." As the only practicing lawyer there, he was assigned all the criminal appointments from the court, which paid \$200 for a felony and \$100 for a misdemeanor. During this time, he also served on the Board of Governors of the Alaska Bar Association (1955-1959), and was its president from 1958-59. In addition, he served as City Attorney for Nome for several years. In 1957, the citizens of Nome elected him to the House of Representatives of the Alaska Territorial Legislature, where he served until Statehood in 1959.

It was on November 9, 1959, in Nome, that von der Heydt received the following telegram:

I AM TODAY MAILING NOTIFICATION OF YOUR APPOINTMENT TO SERVE ON THE SUPERIOR COURT FOR ASSIGNMENT TO THE FIRST JUDICIAL DISTRICT. ASSUMPTION OF OFFICE SCHEDULED FOR NOVEMBER 27, 1959. CEREMONIES AT JUNEAU. JUSTICE FOR ALL WILL EVER BE YOUR RESPONSIBILITY. MY PERSONAL CONFIDENCE AND GOOD WISHES GO WITH YOU NOW AND THROUGHOUT YOUR JUDICIAL SERVICE.

WILLIAM A EGAN GOVERNOR

On February 23, 1960, Judge von der Heydt formally opened the new Superior Court in Juneau with the following remarks to the gathered crowd:

As each of you do, I am sure, I take great pride in our new State of Alaska. I am proud to be a member of the new State judiciary and to take part in whatever measure in the continued building of this dynamic young State.

Judge von der Heydt served the Alaska Court System for nearly seven years, helping guide the new State's judicial system through a period of critical transition. On September 9, 1966, President Lyndon Johnson nominated him to the U.S. District Court for the District of Alaska, and he was confirmed and commissioned later that year. He has served as a U.S. District Court Judge ever since. Although formally retired since 1994, Judge von der Heydt has remained an active member of the federal judiciary, available to conduct trials, settlement conferences, and other court business. Throughout his long tenure, he has continued to shape the laws and policies affecting the State of Alaska—with dignity, compassion and humility.



Judge James A. von der Heydt, Presiding Superior Court Judge for the First Judicial District, in his Juneau chambers, circa 1963.



Superior Court Judge von der Heydt on the bench in Juneau, circa 1964. In 1965, he would be appointed to the U.S. District Court by President Lyndon Johnson.



U.S. District Court Judge James A. von der Heydt in 1984, when he took Senior Status after nearly 20 years on the federal bench. *Anchorage Times* (April 8, 1984).



Judge von der Heydt and some of his Alaskan U.S. District Court colleagues with visiting Judge Ronald Lew of Los Angeles, in Anchorage, circa 1992. L-R: Judge Andrew J. Kleinfeld, Judge von der Heydt, Judge James M. Fitzgerald, Judge H. Russel Holland, and Judge Lew.



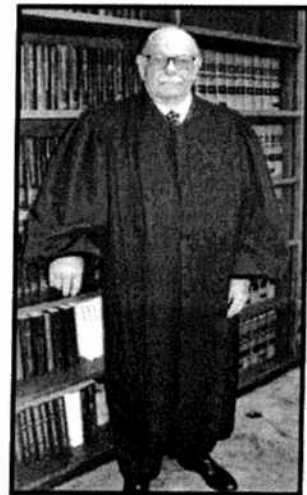
Judge von der Heydt at his 1994 Retirement Dinner in Anchorage.



Verna von der Heydt and Judge von der Heydt at the Judge's 1994 Retirement Dinner in Anchorage.



Verna von der Heydt and Judge von der Heydt at the May 1998 Convention of the Alaska Bar Association in Girdwood.



Senior Judge James A. von der Heydt in his chambers at the U.S. Courthouse in Anchorage, April 2000.



The new Alaska Superior Court Judges enjoy a coffee break during their New Jersey training. L-R: Judge Harry O. Arend, Judge Edward V. Davis, Judge Everett W. Hepp, Judge Walter E. Walsh, Judge James A. von der Heydt, Judge J. Earl Cooper, Judge James M. Fitzgerald, Judge Hubert A. Gilbert, and their host, Federal Judge William A. Smith. *Newark Evening News* (December 1, 1959).

## FOUNDING A COURT IN THE 49TH STATE

The lawyers and judges of the new State of Alaska were aware that they were creating history. Perhaps no one stated it better than Alaska's first woman lawyer, Mildred R. Hermann, who wrote the following for the *Nebraska Law Review* in 1960:

(T)hat Alaska has been able to build a judiciary widely heralded as the best among the fifty states perhaps stems from its chaotic youth. With no territorial judiciary it had nothing to undo, and there was no necessity for compromise... (W)hatever stiffness may develop in the machinery as it moves forward, Alaskans may be assured that they have built a state judiciary which is founded on the most advanced judicial concepts of the time. If the citizens of the state who have been given the responsibility for making it work, through the selection of qualified and able judges, discharge that responsibility, Alaska need feel no concern for the administration of justice in the 49th state.

It is largely to the credit of Alaska's early judges, and the many dedicated jurists who have followed in their footsteps, that Hermann's words ring no less true today than they did 40 years ago.

### In Memoriam

**Hon. Harry O. Arend 1903-1968**

Served 1959-60—Alaska Superior Court, Fairbanks; 1960-65—Alaska Supreme Court

**Hon. J. Earl Cooper 1907-1964**

Served 1959-1964—Alaska Superior Court, Anchorage

**Hon. Edward V. Davis 1910-1985**

Served 1959-1973—Alaska Superior Court, Anchorage

**Hon. Hubert "Hugh" A. Gilbert 1914-1984**

Served 1959-1973—Alaska Superior Court

[Nome—1963-68; Anchorage—1963-68; Ketchikan—1968-73]

**Hon. Everett W. Hepp 1916-1987**

Served 1959-1975—Alaska Superior Court, Fairbanks

**Hon. Walter E. Walsh 1898-1969**

Served 1959-1967—Alaska Superior Court, Ketchikan

### ACKNOWLEDGMENTS

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