A History of the Alaska Federal District Court System, 1884-1959, and the Creation of the State Court System.

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THE CREATION OF THE ALASKA STATE COURT SYSTEM

The majority of Alaska's citizens rejoiced when the United States Senate, following earlier House action, passed the Alaska statehood measure by a vote of 64 to 20 on June 30, 1958. On January 3, 1959 President Dwight D. Eisenhower formally admitted Alaska as the forty-ninth state when he signed the official proclamation.[1]

Victory in the long statehood struggle had at long last been achieved. Now the state's first chief executive and legislature faced the task of guiding Alaska from territoriality to statehood, of fashioning a functioning state government based on the constitution Alaskans had approved in 1956. It was no easy task, because now the state had to assume duties and responsibilities formerly performed by the federal government.

Ranking high among these was the creation of a state judicial system. Historically, Congress had been slow in extending the legal system to the north. For example, for seventeen years after the Treaty of Cession in 1867, there was literally no law in Alaska. One could not own property, get married, write a will, or even cut firewood without defying a Congressional prohibition.

Finally, the Organic Act of May 17, 1884 provided a limited civil government for Alaska through the expedient of arbitrarily extending the Oregon statutes to the northern frontier, but without any modifications or changes making such laws suitable for Alaska. Historian Earl Pomeroy characterized the Organic Act of 1884 as one designed to govern Alaska "more like the Newfoundland fisheries of the Seventeenth Century British Empire than like a territory." Other scholars agreed, pointing out that the 1884 Act "made no provision for eventual representative government."[2]

It did, however, give Alaska a federal judicial system. A federal district court judge presided over the district court possessing "the civil and criminal jurisdiction of district courts of the United States,...exercising the jurisdiction of circuit courts, and such other jurisdiction, not inconsistent with this act, as may be established by law." In addition, there was a clerk, a district attorney, and a marshal as well as four unpaid federal court commissioners who were to subsist on the fees they collected for probate and other services from the public. Being dependent upon a fee structure, commissioners often accelerated their initial judicial hearings or arraignments by conducting their own supplementary investigations and informally locating witnesses. In essence, many commissioners acted as investigating officers. Not only would any given commissioner conduct a preliminary hearing to determine whether a defendant should be bound over for a federal court arraignment, but he often expedited that process by acting informally as his own peace officer. Commissioners investigated felonies along with marshals, and often worked closely with local police on matters such as prostitution and gambling offenses. Eventually, a Congressional Act of 1900 added two more federal judges.[3]

With further population growth, this court eventually had four divisions, with headquarters at Juneau, Nome, Anchorage, and Fairbanks, each presided over by a resident federal district court judge. These individuals possessed considerable powers, handling many administrative functions usually performed by territorial governors. For example, the Act of 1900 allowed the incorporation of Alaskan municipalities of three hundred or more permanent inhabitants, not transients, and the organization of local government. The U.S. District Court for the area had to approve any incorporation proposals.[4] This gave federal judges full control over local selection and certification processes. And although the U.S. Marshals, Commissioners, and the U.S. Attorneys,

later called Federal District Attorneys, were presidential appointments in theory, federal judges in fact appointed the Marshals and Commissioners for their own districts, and also recommended U.S. Attorneys.

The Organic Act of 1912 specifically retained the judiciary and law enforcement functions for federal authorities except within incorporated municipalities. There citizens could elect their own judges, but these had jurisdiction only over misdemeanors.[5] Due to the ambiguities contained in the language of both Organic Acts, and the imposition of a Federal Code of Criminal Procedure, all crimes, including misdemeanors, were considered federal offenses. Thus, offenders dissatisfied with sentences handed out by municipal judges, could, and often did, appeal their sentences to the federal district courts.[6] These procedures did not contribute to the prestige of the municipal judges, who, in reality, were little more than police court magistrates, because federal district courts often overturned their sentences. Additionally, federal district courts could and did hear misdemeanor cases as courts of original jurisdiction. In short, this duplication worked against judicial harmony, and all concerned understood that federal district court judges retained all essential judicial powers.

With the population influx during and after World War II it quickly became obvious that the federal territorial system of justice simply could no longer cope adequately. It became painfully evident that the structure of federal district courts, urban and rural commissioners generating their own fees, and the ambiguous local municipal courts had to be modified. The increase in population threatened to inundate the federal district courts at Juneau, Anchorage, and Fairbanks with thousands of misdemeanor cases.

Retired Superior Court Judge Thomas B. Stewart recalled in 1982 that the war and postwar boom years placed tremendously increased demands on the federal

territorial judicial system. Congress, however, turned a deaf ear to pleas for more adequate staffing. The problems were particularly acute in Anchorage and Fairbanks. In the former city, the district court frequently sat on Saturdays, and on occasion had been in session from 8:00 a.m. until as late as 9:00 p.m. in futile attempts to keep up with its work. On the average, this court rarely convened later than 9:00 a.m. and rarely recessed until 5:30 p.m. In 1957, the Anchorage district court closed 1,126 civil cases, averaging to something over four cases for each judicial day. In addition to this phenomenal civil case load, it also closed 231 criminal cases in 1957, nearly one case for each judicial day. That was not all, for that court also disposed of 18 bankruptcy cases, or roughly one every three weeks. Still, at the end of 1957, the district court in Anchorage had a backlog of 1,700 pending civil and 96 criminal cases. Worse yet, during 1957, some 1,255 new civil cases were filed. While not quite as staggering, the statistics for district court in Fairbanks showed a similarly impossible situation. At the end of May 31, 1958, it had a backlog of 746 pending civil and 110 criminal cases. As in Anchorage, these were "hard core cases" which had to be tried, for the courts had already disposed of all of the easy, routine cases.[7]

The Anchorage district courts had the aid of seven visiting United States District Court Judges from several states and Hawaii who sat for varying periods between 1956 and 1958. In addition, the district court judge from Juneau each year spent several months in Anchorage, yet despite this aid, the backlog continued to grow. For several years the district court judge from Nome had spent a major portion of his time assisting his Fairbanks and Anchorage colleagues whose case loads were desperate. In fact, so much of his time had been spent in other divisions that the people in his own area "are grumbling that justice in their area is delayed." All to no avail, however,

because the situation was "completely out of hand and steadily becoming worse."[8]

In fact, the Anchorage and Fairbanks district courts had employed all of the usual methods of relieving court congestion. They had cut trial time to a minimum, often below the proper minimum, used calendar control and pretrial procedures, and practically coerced settlements. They had limited argument and the presentation of evidence and endured unconscionably long court days. They had arbitrarily dismissed cases with no recent activity, and still the problem had grown ever more acute.[9]

Appeals from the territorial district courts went to the Court of Appeals of the Ninth Circuit in San Francisco, which was slow and expensive. Appeal briefs had to be printed in paperback form on a designated high quality paper. As a result, there were few appeals.[10]

These conditions had generated much dissatisfaction, even outrage, among Alaska's legal fraternity. Even more distasteful was the disciplinary power district court judges exercised over Alaskan lawyers. On numerous occasions district court judges had rendered controversial decisions in such cases. Everywhere but in Alaska, bar associations disciplined members of the profession. Alaska, however, had no formal Bar Association. Lawyers in various communities were loosely organized, but possessed no authority. It was not surprising that most Alaskan lawyers desired to create a territory-wide, or "integrated," bar association, a closed shop to which every practicing lawyer had to belong. Territorial Representative Frederick O. Eastaugh, a Republican and an attorney, introduced a bill to create an Alaska Bar Association in 1953. His measure, however, did not pass.[11]

In the meantime, a controversy erupted in southeastern Alaska which lent urgency to the creation of a territory-wide bar association which could

discipline attorneys. The dispute arose between Wilfred Stump, a Ketchikan attorney and a member of the southeastern Democratic Central Committee who represented Ellis Airlines, and William Boardman, a Republican member of the territorial House and an underwriter for the Northern Life Insurance Company. Boardman carried the insurance for Ellis Airlines, whose president and principal stockholder was Robert Ellis, a man very active in Democratic Party politics. Near the end of the 1953 legislative session Stump and Boardman both were in the Elks Club in Juneau. After a few drinks, the two men argued, allegedly about the conduct of the 1953 territorial legislative session. Stump allegedly threatened Boardman that he would see to it that the latter would lose his insurance contract with Ellis Airlines. Boardman thereupon lodged a complaint with the federal district court in Juneau. Federal District Court Judge George Folta found Stump guilty of unethical conduct and suspended him from practice for thirty days. Stump was furious, because he considered the dispute in the Elks Club to have been a private matter. Party politics intervened as well. Many attorneys questioned the disciplinary action, and speculated that it might have been politically motivated. Stump was a Democrat, Boardman a Republican. Judge Folta had originally been a Democratic appointee, but his continuation in office as a judge depended on Republican President Dwight D. Eisenhower. Many attorneys suspected that Folta had been influenced by Republican politics and wishes.[12]

The Stump-Boardman case became widely known in the territory and provided the impetus for the lawyer members in the 1955 territorial legislative session to push the territory-wide or "integrated" Alaska Bar bill. It passed easily, placing the responsibility for disciplinary actions in the hands of the Board of Governors of the Alaska Bar Association, and enabled that body to unitedly criticize the overloaded federal district courts and ask for changes.[13]

Subsequently, in the 1955 legislative session, law makers passed a measure which called for the holding of a constitutional convention. Late in 1955, fifty-five elected delegates met on the University of Alaska campus in Fairbanks to draft a constitution for the future state. The proposal dealing with the judiciary branch was the first to be considered by the convention. It came from a committee consisting of five lawyers and two laymen, aided by Shelden D. Elliott, the director of the Institute of Judicial Administration at New York University and Professor of Law at that institution. The committee was in general accord over the future state's judicial system, and it quickly agreed to follow principles suggested by the American Bar Association and other professional civic groups. The main features of the proposed system consisted of unity, simplicity, efficiency, accessibility, independence from the executive and legislative branches, and accountability to the voters.[14]

Members of the judiciary committee proposed a unified judicial system consisting of a supreme court, a superior court, and other courts established by the legislature. The entire court system was placed under the rule-making authority of the supreme court, with the chief justice named as the administrative head of all state courts. These provisions closely followed the 1947 New Jersey constitution which had established a court system recognized for its efficiency.[15]

The judiciary article also contained a nonpartisan plan for selecting judges based on the American Bar Association and Missouri Plan models. Under it, the governor appoints judges from nominees presented to him by the judicial council, composed of three laymen appointed by the governor with the consent of the legislature; the state bar named three attorneys, and the chief justice served as chairman. Three years after his first appointment, a judge must submit his name to the voters of the state or of his district for approval or

rejection. Once approved, a superior court judge goes before the voters for reconfirmation every seven years, and a supreme court justice must stand for popular approval every ten years. In short, the delegates wrote a model constitution which the voters ratified in April 1956, but it remained a blueprint until put into operation.[16]

Much to the surprise of many, Congress, after a fourteen year long battle, suddenly approved statehood in 1958. Language in the statehood enabling legislation and in the state constitution provided that the federal territorial district courts continue operations for approximately another three years to give the new state an opportunity to establish its own court system.

That language appeared to give the new state plenty of time to organize its court system. As early as September 4, 1958, Fairbanks attorney Charles J. Clasby prepared a draft of legislative provisions for state courts which should be contained in legislation creating a unified court system. The Board of Governors of the Alaska Bar Association widely circulated Clasby's suggestions among its members and asked for changes or revisions in the proposed draft. Local bar associations quickly established numerous committees to deal with various portions of the draft legislation and offer substantive proposals. In the meantime, the Board of Governors of the Alaska Bar Association met in Nome on September 6 and 7, 1958, to consider, among other items, appointments of three attorney members to the seven member judicial council.[17]

Those appointments were obviously important, because that body would submit names for appointments to judgeships to the governor. Although appointments were to be made without regard to political affiliation, Alaska's lawyers were only human and had political preferences. Democrats, for example, prided themselves in the fact that a democratic controlled territorial legislature had passed the Alaska Bar measure as well as the bill calling for a constitutional

convention. In fact, Wilfred Stump, an ardent Democrat and the Ketchikan attorney who had been disciplined by Federal District Court Judge George Folta earlier remarked to Charles J. Clasby prior to the Nome meeting "that we would now have to do the necessary to make sure that the judicial council was controlled by the Democratic Party...."[18]

At Nome, the Board of Governors nominated Robert Parrish of Fairbanks, an attorney who had specialized in representing plaintiffs in personal injury suits. The board also named Ernie Bailey from Ketchikan, Stump's brother, and Harold Stringer from Anchorage. The nomination of Stringer, a Republican, created an uproar. Buell Nesbett, a Democrat, the president of the Anchorage Bar Association, a New Mexican by birth and a graduate of San Francisco Law School, remarked that Stringer was "not considered an active lawyer but rather a Republican politician. He was a nice enough fellow but not entitled to represent the Bar in an important position like that." After a distinguished five-year career in the Navy, Nesbett had received his discharge after V-J Day in 1945. Offered a job with a large trial firm in San Francisco, he instead opted to go to Alaska to hunt and fish and practice some law. He took his Alaska Bar examination on December 27, 1945 and passed it with high marks. Nesbett decided to settle in Anchorage which had a total of eight lawyers. His worried colleagues told him they doubted that he could earn a living. He threw in his lot with Stanley McCutcheon, an established attorney. They had no problem making a living.[19]

On learning of Stringer's nomination, the Anchorage Bar rebelled. It rejected the nomination and protested that the bar had not been consulted in making the appointment, that the Board of Governors had acted in a highhanded fashion. In fact, there was confusion in the minds of many. The constitution stated that the three attorneys be appointed "by the governing body of the

organized state bar." The question immediately arose as to what the governing body of the State Bar Association was, the Board of Governors or the annual convention of the State Bar Association? The constitutional language did not make this clear, nor did the minutes of the constitutional convention clarify whether or not the selection of the attorney members of the judicial council was to be determined directly by the Board of Governors, or by the annual convention of the membership at large. Anchorage attorney Wendell P. Kay, a member of the Board of Governors at the time, in a 1982 interview maintained that the Board should have consulted the Bar. Eventually Harold Stringer withdrew, and Ray Plummer was elected in his stead. As a member of the insurance bar, he balanced the Parrish appointment. Kay explained the differences between the insurance and plaintiff bar by emphatically stating that "insurance lawyers do not like to go to court and find a judge who was a former member of the plaintiff's bar and is known for his liberality [with insurance company monies] and believes that all insurance companies are rascals." Kay recalled that many bar members "were interested in that aspect rather than party affiliation, it was a matter of bread and butter."[20]

By May 1959, Governor William A. Egan had named the first lay members of the judicial council--Dr. William Whitehead, a Juneau physician, acted as chairman until the first chief justice was named; Roy Walker, a Fairbanks businessman; and John R. (Jack) Werner, a Seward businessman. The three served many distinguished years on the judicial council.[21]

While the dispute on appointments to the judicial council was settled, the first state legislature convened in Juneau in January 1959. Ralph Moody, an Anchorage attorney who was a member of the territorial senate since 1957, now became chairman of the State Senate Judiciary Committee, and John Hellenthal, the Juneau-born son of former Federal Territorial District Court Judge Simon

Hellenthal and himself an attorney, chaired the House Judiciary Committee. Soon after the legislature convened, both chairman received drafts of a proposed judiciary act from the Board of Governors of the Alaska Bar Association. The draft was the result of many months of efforts by the members of the Alaska Bar Association. Wilfred C. Stump, the president of the Board of Governors of the Alaska Bar Association, at the time, transmitted the draft to the legislature on January 24, 1959. Stump and many other members of the Alaska Bar Association, however, were bothered by section 18 of the Congressional statute providing for the admission of Alaska as a state. It stated that terminating the jurisdiction of the Territorial Districts Court and providing for the transfer of cases to the state courts "shall not be effective until three years after the effective date of this Act, unless the President, by Executive Order, shall sooner proclaim that the United States District Court for the District of Alaska....is prepared to assume the functions imposed upon it," and that during such period of time "the United States District Court for the Territory of Alaska shall continue to function as heretofore." Many Alaskan lawyers maintained that Congress could not restrict the powers of the new state to establish its judiciary at a time of its own choosing. The establishment of state courts certainly fell "exclusively within the sphere of state power," and Congress therefore could not postpone the time when a state court could begin to function.[22]

Stump and others were afraid that any judgements rendered by the interim court might be declared void if challenged. Should that happen, it would result in judicial chaos and unending litigation. In his transmittal letter Stump expressed these apprehensions by stating that "there is a grave doubt as to the present court system having jurisdiction." He hoped that these fears

might be unjustified, but if true, "it will be necessary to act immediately" to establish an Alaska state court system.[23]

Before the jurisdictional question could be dealt with, the measure setting up a state judicial system drafted by the Board of Governors of the Alaska Bar Association was introduced in the State Senate and House on January 29, 1959. Immediately, the Judiciary Committees of both houses first met separately and considered the measure section by section and noted objections or ambiguities to be called to the attention of the other house. Thereafter the joint committees of both houses met repeatedly and discussed and agreed upon desired changes.[24] Eventually, the cooperative efforts of the Board of Governors, the various local Bar Associations, and the Senate and House Judiciary Committees provided a bill designed to established the Alaska Court system. In addition, a study on the implementation of the judicial article of the constitution performed by the Public Administration Service of Chicago under contract tremendously aided the labors of the legislature. As during the constitutional convention in 1955-56, Shelden Elliott once again made his expertise available. In all their deliberations, members of the legislature expected that the state would have three years in which to make the state court system operable.[25]

It was not to be. A number of Anchorage lawyers, including Wendell Kay and Buell Nesbett, among others, in a series of cases challenged the jurisdiction of the interim court to try their clients after statehood for offenses committed before statehood and asked J.L. McCarrey, Jr., the interim Federal District Court Judge for Anchorage, to dismiss the cases. McCarrey carefully examined the applicable case law and found that the interim Federal District Court for the District of Alaska indeed possessed continuing jurisdiction

during the transitional period from territoriality to statehood, not to exceed three years. He therefore ruled against the motion to dismiss the cases.[26]

McCarrey's opinion did not deter the Anchorage lawyers who wanted to have the jurisdictional question settled as soon as possible. In the case of Parker v. McCarrey, Parker was charged with a felony by a federal territorial grand jury in October 1958. He challenged the jurisdiction of the interim court to try him after statehood. Judge McCarrey scheduled Parker's trial. Thereupon, his defense lawyers petitioned the Ninth Circuit Court of Appeals in San Francisco for a writ of prohibition alleging lack of jurisdiction. The defense argued the case in the late spring of 1959. This alerted the members of the State Senate and House members of the judiciary committees to the fact that the integrity of the interim judicial system was seriously threatened. The lawmakers hurriedly prepared and enacted an amendment to Chapter 50 of the 1959 Session Laws of Alaska which had established the Supreme Court and Superior Courts and provided for an effective date of January 3, 1962, three years to the day after President Eisenhower had formally admitted Alaska to the Union. The quick amendment provided for the prompt implementation of the state judicial system by designating supreme court justices and superior court judges in case that either the interim federal trial courts or the Ninth Circuit Court of Appeals proved to be without jurisdiction over Alaska state cases. This meant, of course, the possibility of immediate action to create Alaska's courts rather than the availability of a deliberate and planned three-year transitional and implementation period.[27]

The Ninth Circuit Court of Appeals soon announced its decision in the Parker case. It held that because of imprecise language in the statehood enabling act, it had no appellate jurisdiction over cases decided by the interim federal district court for Alaska. This implied that the interim

federal district court had no jurisdiction, since Parker had no appellate remedy until the Alaska State Supreme Court was established and became operational.[28]

Thereupon the judicial council immediately met in Juneau in May and June of 1959, and by mid-July it provided the governor with the first nominees for the State Supreme Court. Governor William A. Egan selected Walter Hodge, federal district court judge at Nome; John H. Dimond, a Juneau attorney and the son of former territorial delegate and Federal Territorial District Court Judge Anthony J. Dimond; and Buell Nesbett, an Anchorage attorney. Egan designated Nesbett as the chief justice. Neither the constitution nor statutes made provisions on how the chief justice was to be selected. Egan's action was not challenged, and Nesbett ably served in that office for more than ten years until his disability retirement after a plane accident in 1970. By mid-October, the nominees for the superior court had been chosen by the council, and on November 29, 1959, the governor's choices were sworn into office: Walter Walsh at Ketchikan; James Von der Heydt at Juneau; Hugh Gilbert at Nome; Ed Davis, James Fitzgerald and Earl Cooper at Anchorage; and Everett Hepp and Harry Arend at Fairbanks. These newly selected judges promptly traveled to New Jersey, whose unified court system closely paralleled the Alaska system, in order to receive some orientation and training on judicial and administrative functions.[29]

In the meantime, the Alaska Supreme Court worked hard to make the new system operational. Former Chief Justice Nesbett recalled in 1982 that he only had about $900,000 available to get the court system started--and the state had no court buildings. He knew that he needed federal help, and therefore flew to Washington, D.C. to plead his case with Warren Olney III, the administrator of the federal court system. At Nesbett's request Olney came north to appraise

the situation. It was simple in Ketchikan where the state was granted permission to use the U.S. District Court facilities when that court was not sitting. The same permission was granted in Nome. It was different in Anchorage where Nesbett proposed to slice the big court room in half by building a partition. Although disliking the idea, federal officials cooperated. In Fairbanks the state received some surplus space in the federal building. Nesbett had to rent commercial space for the recording, magistrate, and probate offices, an expensive proposition.[30]

Where to locate the supreme court was a contentious subject. There was much pressure to have it headquartered in Juneau, and Nesbett spent approximately six months in the capital after his appointment. His family remained in Anchorage. The chief justice deferred a decision until a survey of all cases pending at statehood had been completed. He then analyzed the findings and found that 82 percent of all cases originated north of Cordova, and only 5 percent of all appellate cases originated in Ketchikan and Juneau. Most appellate cases came out of Anchorage and Fairbanks. Headquartering the Supreme Court in Juneau would have required clients and lawyers on both sides to travel to Juneau, a not very accessible location, to argue cases. That did not sound practical nor economical to Nesbett, so he polled the chief justices of the contiguous states and found that the justices lived in the various large communities where they took care of the daily business. Under those circumstances, justices discussed pending cases by memoranda. The chief justice secured Dimond's vote to station a justice in Juneau, Anchorage, and Fairbanks. Justice Hodge did not like the arrangement and soon left for a federal appointment. His replacement, Superior Court Judge Harry Arend from Fairbanks, however, went along with the plan. Many Juneau citizens were so bitter about

the arrangement that they snubbed Justice Dimond for months. They could not forgive him for approving the scheme.[32]

The Alaska Court system had been launched. It faced many obstacles, but Chief Justice Nesbett proved equal to the task, as did the Superior Court Judges, and David Luce, a California attorney with court administrative experience, recommended by Warren Olney, who became Alaska's first court administrator. According to Nesbett, Luce was "a go-getter and accomplished much." The state court system had to buy machinery, hire secretaries, and purchase equipment and supplies. The chief justice had one man who kept track of the budget on a daily basis so Nesbett always knew how much money was left. It was a trying but exhilarating period. Among the many problems to be solved was the lack of qualified court reporters for eight new trial judges. Warren Olney told Nesbett about Soundscriber, a slow-turning, long-playing piece of equipment which the Federal Aviation Administration had used for years to monitor the airwaves without any problems. Nesbett visited the Soundscriber factory in New Haven, Connecticut, and discussed the situation. After a successful trial in Juneau, Nesbett ordered thousands of dollars worth of Soundscriber equipment with the approval of Justices Hodge and Dimond. This mightily angered the court reporters. Hodge changed his mind, however, and wrote a dissent to the Supreme Court order establishing Soundscriber as the official recording system for the Alaska court system. The new system, however, worked extremely well.[32]

Retired Superior Court Judge Thomas B. Stewart best summed up the role Nesbett had played in establishing the Alaska court system in his keynote address to the joint Bar/Bench Banquet of the Alaska Judicial Conference - Alaska Bar Convention on May 19, 1982 in Anchorage:

> Here it is important to pay tribute to the energy, grasp, professional competence, imagination, vigor and selfdiscipline of Buell Nesbett, through which he speedily and successfully realized the establishment of the state court system, bringing it from nothing to a viable operating

entity in seven or eight short months. Without his leadership the task could not have been accomplished, but with it the job was done...admirably.[33]

FOOTNOTES

1. Claus-M. Naske, An Interpretative History of Alaskan Statehood (Anchorage, Alaska: Alaska Northwest Publishing Company, 1973), pp. 166-168.
2. A.W. Greely, Handbook of Alaska: Its Resources, Products, and Attractions in 1924 (Port Washington, New York: Kennikat Press, 1925), p. 14; Earl S. Pomeroy, The Territories and the United States, 1861-1890: Studies in Colonial Administration (Philadelphia: University of Pennsylvania Press, 1947), p. 2. Jack E. Eblen, The First and Second United States Empires: Governors and Territorial Government, 1784-1912 (Pittsburgh: University of Pittsburgh Press, 1968), p. 151.
3. 23 Stat. 24 (1884); See United States v. Keith A. Chisholm, No. 1126, U.S. District Court, 4th District, Fairbanks, Alaska, 1940, and U.S. Commissioner David R. Davies in United States v. Sadie (NMI) Coleman, No. 3611, U.S. Commissioner's Court, Anchorage, Alaska, 1957; 31 Stat. 322 (1900).
4. Ibid.
5. 37 Stat. 512 (1912).
6. Records of the U.S. District Court, District of Alaska at Anchorage, Fairbanks, and Juneau, Criminal Case File Series, Federal Records Center, Seattle, Washington.
7. Alaska Bar Association, Anchorage Bar Association, Tanana Valley Bar Association, "A Plea From Alaska," to the Honorable William P. Rogers, Attorney General of the United States and to the delegates assembled at

the Attorney General's Conference on Court Congestion, June 16, 1958, in the private papers of John Hellenthal, Anchorage, Alaska.

8. Ibid.

9. Ibid.

10. Interview with Thomas B. Stewart, June 20, 1982, Juneau, Alaska.

11. Interview with Clifford Groh, September 8, 1982, Anchorage, Alaska; Interview with Wendell P. Kay, July 8, 1982, Anchorage, Alaska; Judge Thomas B. Stewart (Retired), "The Alaska State Courts: Beginnings," keynote address given to the joint Bar/Bench Banquet of the Alaska Judicial Conference-Alaska Bar Convention on Wednesday, May 19, 1982 at Anchorage, Alaska. Copy in author's files.

12. Interview with Thomas B. Stewart, June 20, 1982, Juneau, Alaska.

13. Ibid.

14. Victor Fischer, Alaska's Constitutional Convention (Fairbanks, Alaska: University of Alaska Press, 1975), p. 113.

15. Ibid.

16. Ibid., pp. 113-114.

17. Charles J. Clasby to the Board of Governors, Alaska Bar Association, September 4, 1958; Shelden D. Elliott to the Board of Governors, Alaska Bar Association, September 15, 1958, in the private papers of John Hellenthal, Anchorage, Alaska.

18. Edward V. Davis to Charles J. Clasby, May 9, 1973, in the private papers of John Hellenthal, Anchorage, Alaska.

19. Interview with Buell A. Nesbett, July 26, 1982, Solana Beach, California.

20. Ibid.; Interview with Thomas B. Stewart, June 20, 1982, Juneau, Alaska; Interview with Wendell P. Kay, July 8, 1982, Anchorage, Alaska.

21. Judge Thomas B. Stewart (Retired), "The Alaska State Courts: Beginnings," keynote address, May 19, 1982.

22. 72 Stat. 339 (1958); Nicholas Jaureguy of Cake, Jaureguy, Hardy, Buttler & McEwen to Commonwealth Title Insurance Company, January 12, 1959, in the private papers of John Hellenthal, Anchorage, Alaska.

23. W.C. Stump to Ralph E. Moody, January 24, 1959, private papers of John Hellenthal, Anchorage, Alaska.

24. Interview with Thomas B. Stewart, June 20, 1982, Juneau, Alaska.

25. Ibid.

26. Opinion by Judge J.L. McCarrey, February 21, 1959, in private papers of John Hellenthal, Anchorage, Alaska.

27. Judge Thomas B. Stewart (Retired), "The Alaska State Courts: Beginnings," keynote address, May 19, 1982.

28. Ibid.

29. Ibid.

30. Interview with Buell A. Nesbett, July 26, 1982, Solana Beach, California.

31. Ibid.

32. Interview with Buell A. Nesbett, July 26, 1982, Solana Beach, California; Judge Thomas B. Stewart (Retired), "The Alaska State Courts: Beginnings," keynote address, May 19, 1982.

33. Ibid.