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Henry Davis speaks at the Native Arts and Literature Conference at Sitka in December 1975;  
Justice Boochever speaks at the Bush Justice Conference in Kenai in 1976

Series: Potlatch series

Moses Wassillie, moderator

Henry Davis said in 1924 compulsory education was established in Kake, Alaska. He said the men of the village who could hardly read realized that the children needed to be educated. They decided that they needed to stay in the village and created their own compulsory education law. From there on they had to stay in the villages and they were not taken out to the camps. There was a fine if the child was taken out of the village. One of the creators of the law took his children out of the village and was told that he would be paying a fine. It isn't much of a law but the people abided by it. He said he had been attending school just three months out of the year and after the law was implemented he attended school all year. He admired the people who created the law. When he returned from college he worked as an apprentice teacher. The man he taught with was a banker who had very little knowledge about what education was supposed to be about. He was supposed to learn from this man and he probably taught him. When some of their students wanted to go to the territorial school they were told they had their own school and to go back to their own school.

Unidentified song.

Henry Davis said after the war in 1944 they thought there was still discrimination in the education system. The Bureau of Indian Affairs maintained schools for the Indians and the territory maintained schools for the whites. In Kake they tried hard to get a new school. He traveled down to Juneau. He was given ten dollars for his travel. They were storm bound in Juneau. He went up to the area director's office, Don Foster. Davis told Foster that he expected help. He told Foster that they would like to break away from the BIA school and become a territorial school. This was in February of 1944. Don Foster said they had been talking about this topic. Foster introduced him to Dr. Ryan. They had wanted to move away from Bureau of Indian Affairs schools. He stayed there for two days and arranged plans. They would be using the BIA school and they would be helped with school taxes for three years until they got on their feet. They were the first village to break away from the BIA schools.

Song by Willy Dunn

Moses Wassillie said the third annual Bush Justice Conference was held in Kenai. Justice Robert Boochever reviewed the justice system in Alaska and told a story about a hunter.

Justice Boochever said he is reminded of a fellow who loved to hunt. One day while he was hunting he looked up into the sky and wondered what it was like up there. A voice came down from heaven and said I have some good news and some bad news. The good news was there were rolling hills full of game. The bad news is you're scheduled up here for a hunt next Monday.

Boochever said he would review the history of the court system and the village justice system of Alaska. They originated with the system that was in affect before statehood with the U.S. commissioners and the deputy commissioners in the rural areas. The system was politically oriented. The appointments of the commissioners were made on a political basis. Their payment was based on the amount of fees they would receive. After statehood they inaugurated the magistrate system. They now have 58 to 60 magistrates in the state. The magistrates are appointed by the presiding judges. The judges always go to the villages and consult with the villages and get the input from the people living there. In most of the villages the magistrates are Native. The jurisdiction of the magistrate covers a very wide area. They are the backbone of the judicial system in smaller places. They have civil jurisdiction of up to \$1,000 dollars. Criminal jurisdiction there are two types of cases: felonies (sentence of over one year) and misdemeanors (sentence of under one year). The magistrates may try misdemeanors with the consent of the parties. They may also enforce municipal ordinances. In the felony cases they take care of the important initial steps: arraignment, plea, setting bail and the conditions of bail. They also handle preliminary hearings with evidence to see if there is reason to hold that person for prosecution under the charge. They also handle a wide variety of other functions including that of the coroner investigating death cases, marriages, absentee ballots, and specially appointed masters to handle children's cases.

Song by Buffy Sainte-Marie

Boochever said one of the major problems of the justice system in rural areas is the fact that they do not have adequate quarters and facilities in each of the communities. A few years ago they secured a grant 13 modular facilities with detention facilities, office space for the magistrates and a small court room. He thinks they have worked out quite well. The court system supervised the installation of the facilities. He said they found that it wasn't quite as simple to construct these modules in an outlying village as it would be in the outskirts of Anchorage. He said most of them have had all of the problems worked out and they are functioning very well. There are a shortage of facilities and they need others in other communities. They do have a new court house going up in Bethel. Judge Guinn has told him that the building is ready for the roof. The most pressing need is in Barrow. One of the steps that has been done to bring the justice system to the outlying areas and to better service them has been the concept of service areas. This was initiated in Bethel where a superior court judge visits there once a week and also at Barrow where a judge visits from Fairbanks. The legislators have now authorized a superior court judge for Bethel. A program which they thought was going to be a great benefit was the court interpreter program. It

was handled through the Kuskokwim Community College at Bethel. They trained interpreters who understood the Yupik language who could then receive training in legal terms and could translate from Yupik to English and back again and help in understanding the justice system. He was saddened to hear that the interpreters have not been used to date. He hopes that the program can be broadened. One of the programs that has been inaugurated is the village conciliation board. It is a program that attempts to adopt the traditional means in villages of resolving disputes to their present judicial system. Boards of local residents were selected. People could voluntarily bring their disputes before them and have them settled more in the traditional manner that disputes were settled in the villages in the past. They are watching those programs very carefully with a view towards expanding them if they prove to be sufficiently feasible. The Supreme Court of Alaska over the years has been very sensitive to village problems. Starting with the Alvarado decision that was authored by Chief Justice Boney in 1971 it held that the defendant had a right to be tried in the community near where the crime occurred. Prior to then people were brought in from remote villages to Anchorage or Fairbanks to be tried by juries that had no sympathy for their problems and no understanding of their cultural background. This was changed by the Alvarado decision. He talked about another case – Agachek against Montgomery Ward he authored. The defendant was served in Scammon Bay requiring him to appear in Anchorage was invalid because they had to provide that the person who got the complaint could answer in writing and have the case transferred to a location near his home. In their small claims rules they have adopted similar principles to make sure that the cases are brought where the people are when there is justification for that. Another case of significance were the Aleut Decision of 1975 and the Kachemak Bay decision of this year. It required the state to consult with local communities and their planning boards before the state would enter into contracts for the sale of land near those communities or the lease of land or oil rights in those areas. He said the effort is made to have local input. The effort is made to have local input to bring the law and bring the decisional functions back to those communities. In a recent case, the Gregory case, it was held that a defendant who had limited understanding of English must be explained to in great detail his right to an attorney and the judge must make sure he understands that right before entering a plea of guilty. He thinks all of these aspects are looking at greater local control in the judicial system and greater input from those in the local communities.

Song by the Neon Philharmonic