A sepia-toned portrait of Judge Frederic Fuller, a young man with light-colored hair, wearing a dark suit, white shirt, and a striped tie. He is looking slightly to the left of the camera with a serious expression.

Judge Frederic Fuller,  
Wesleyan class of 1890,  
brought the law to  
remote Alaska.

# FRONTIER JUSTICE

BY MICHAEL CAREY

In August 1912, Frederic E. Fuller (Class of 1890) was appointed federal judge of the vast Fourth Judicial District of northern Alaska. Immediate logistical challenges accompanied the honor. Fuller lived in Nome at the edge of the Seward Peninsula. The district headquarters, Fairbanks, lay hundreds of miles to the east. And during mid-September Fuller was expected to preside over a murder trial in Iditarod (namesake of the famous dog-sled race) closer to Nome than Fairbanks.

Fuller, at age 44, was about to spend weeks watching the Alaska wilderness slide by from the deck of a steamboat.

Nome, Iditarod, and Fairbanks were all gold-mining communities, and if Fuller wasn't a miner, he was part of the Klondike-Alaska gold rush, arriving in Skagway, gateway to the Klondike, in 1897.

Born to a farming family in West Auburn, Pa., in 1868, Fuller attended Wesleyan while Woodrow Wilson was a member of the faculty. After graduation, he entered the National University Law School in Washington, D.C., earning his degree in 1892. He was a clerk at the War Department while in Washington, as well as the Court of Claims, before Alaska beckoned.

Fuller's education and experience were exceptional among Alaskan lawyers of his generation, many of whom only read law in an attorney's office before opening a practice.

The discovery of gold at Nome drew thousands of would-be miners from around the world, Frederic Fuller among them in 1900. Fuller, however, prudently recognized that for every miner whom gold enriched hundreds would return home empty-handed. He practiced law from his bachelor quarters in the Golden Gate Hotel, becoming the U.S. Commissioner in 1906.

Commissioners were the second rung of the Alaska legal system, below judges, handling minor criminal cases as well as inquests, sanity hearings, and probate cases, as well as offenses against decency: the use of profanity in front of a woman drew fines. The commissioners received no salary, only fees—an arrangement that led the public to

believe some commissioners inflated their bills. (Fuller's subsequent salary as a federal judge was \$7,500 a year—making him the recipient of one of the largest payroll checks in the territory.)

The selection of federal judges in sparsely populated Alaska, barely 64,000 residents in the 1910 census, was highly partisan, highly personal, and of high consequence to the communities over which the judge held jurisdiction. Anyone with serious business interests would be concerned about judicial selections. Lawsuits seem to have been as much a part of mining as the gold pan.

Judges were appointed by the president, through his attorney general, and their tenures were renewed in the same fashion. President William Howard Taft was a Republican, and so was Frederic E. Fuller (no surprise), as well as the governor of Alaska, Walter E. Clark (Class of 1895).

Clark was the Washington reporter for the *Seattle Post-Intelligencer* until Taft named him governor in 1909. He must have visited Alaska before that because he was described as well informed about the territory. Taft's lieutenants said the president selected Clark because he knew him and believed the newspaperman would represent “no faction in Alaska politics.” As governor, Clark supported Fuller's nomination vigorously, probably relying on lawyers and judges for most of his information about the nominee.

Clark's papers contain extensive correspondence about Fuller and his rivals for the judgeship, several other Nome attorneys and the federal prosecutor in Fairbanks, J.J. Crossley, championed by local business leaders and territorial clergymen. In responding to criticism of Fuller, Clark said, “I cannot alter my mature judgment that Mr. Fuller is distinctly the best qualified member of the bar for appointment to our bench....If Mr. Fuller possesses any qualification more pronounced than those of firm moral character and judicial habit of mind that qualification is a well-grounded knowledge of the law resulting from education and constantly studious habits. These habits were formed in one of the best American colleges...”

Lawyers from Washington, New York, Chicago, and Seattle wrote to Attorney General George Wickersham and Gov. Clark on behalf of Fuller. Federal Judge Cornelius Murane of Juneau said, “I have known Mr. Fuller for the past ten years



somewhat intimately in the practice of his profession; I have been associated with him in some cases and opposed in others; he has practiced before me in Nome the last two summers, and I believe him to be a man of excellent attainments, thoroughly grounded in the principles of the common law and very familiar with the practice under the code of the district of Alaska.”

Fuller was confirmed by the Senate in August 1912, and a month later assumed the bench in Iditarod for his first trial, the Nelson brothers murder. During the summer of 1911, miners John, 40, and Gus Nelson, 38, disappeared while traveling down the Kuskokwim River in their small boat. Rumors persisted the Nelsons had been robbed and murdered but the rumors were not confirmed until March 1912, when a third Nelson brother, Nels, found the bodies with the help of Alaska natives who lived near the grave site—an uninhabited, willow-infested island in the Kuskokwim.

Joseph Campbell, a 34 year-old sometimes miner, sometimes laborer, was indicted for the crime after repeated testimony placed him with the Nelsons on the Kuskokwim. Natives who lived near the island described hearing shots from the island, watching Campbell leave the island by boat, and finding the Nelsons’ belongings and supplies.

In an era when segregation was the law in much of the nation and racial prejudice openly practiced in other states, Judge Fuller made it clear what he expected from the 12 white males of the jury when evaluating the testimony of natives. In his jury instructions, Fuller wrote:

“In this case Indian witnesses have testified, and you are instructed that this evidence of Indian witnesses is entitled to as much credit as the evidence of white men and such credibility and weight are determined by the same rules of law, and no witnesses is to be discredited simply on account of his race or color, as every witness, whether white, dark, black or yellow, unless otherwise disqualified by statute, is competent to testify. And in law all races stand upon the same plane.”

The trial lasted seven days and the jurors deliberated 48 hours, returning to the judge three times for further guidance before signing a guilty verdict. On Sept. 30, Judge Fuller sentenced Campbell to life in prison, a sentence that lasted less than five years. In August 1917, Campbell escaped from the

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Leavenworth Penitentiary in Kansas. He was never apprehended.

Frederic Fuller led a busy life in his new home in Fairbanks, home to less than 2,000 people when he arrived but the supply center for thousands more Interior Alaska miners. The judge immediately entered polite society—everyone who was anyone wanted to meet him—and he had cases to try in Fairbanks as well as on his circuit, which he traveled by steamboat in summer, dog sled in winter.

In December 1912, Fuller presided over a case memorable for its unusual evidence. Two Fairbanks bachelors, neighbors, started a fistfight over the behavior of one of the men’s sled dogs. The battle escalated and within a few minutes William Landon, a man in his fifties, shot and killed Henry Dorci, 45. Landon was indicted for manslaughter.

The defendant turned to Tom Marquam, leader of the local defense bar. Marquam had been in Skagway at the same time as Fuller and the two must have known each other before they reached Fairbanks. In offering his defense, Marquam did not confine himself to the physical evidence and testimony of witnesses. He manufactured his own evidence. Tom Marquam was a gifted amateur photographer. A 1920 Fairbanks newspaper story credited him with photographing “about everything on earth in this neck of the woods.” Accompanied by actors, Marquam took his camera to the scene of the shooting and photographed a re-enactment of the shooting designed to demonstrate Dorchi had threatened Landon with a knife before Landon shouldered his rifle.

We don’t know how many photographs Marquam took, but at the trial he submitted seven, each measuring five-and-a-half inches by three-and-a-half-inches.

Re-enactment photos had been offered to many American judges and juries by 1912. But there was disagreement about their legitimacy. In 1898, the Mississippi Supreme Court reversed a lower court’s admission of photographs re-creating a murder scene, finding, “The photographs, and all the evidence touching them, should have been excluded. They were not simply reproductions of the scene of the homicide. They were photographic representations of *tableaux vivants*, carefully arranged by the chief witness for the state, whereby his version of the tragic occurrence should be brought vividly before the mind’s eye of the jury...”

Judge Fuller did not hesitate when Marquam offered his photographs to the jury. He approved their admission. The jury did not hesitate when Fuller asked for a verdict. Not guilty.

Frederic Fuller enjoyed the title of judge for life, but his actual tenure was short. He resigned in the fall of 1914, barely two years after assuming the bench and a year after President Wilson replaced Gov. Clark with a Democrat. Fuller moved to Seattle and practiced law in the prestigious Lowman Building near the waterfront where steamers departed for Alaska. He died Nov. 9, 1953, age 85. Judge Fuller never married.

Michael Carey is a columnist for the *Anchorage Daily News* and the host of *Anchorage Edition* for Alaska Public Television.

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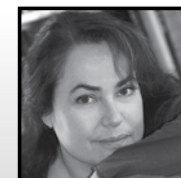
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