

EXTENDING THE PRIVILEGE OF RETIREMENT TO THE JUDGES
OF THE DISTRICT COURT FOR THE DISTRICT OF ALASKA, THE
DISTRICT COURT OF THE UNITED STATES FOR PUERTO RICO,
THE DISTRICT COURT OF THE VIRGIN ISLANDS, AND THE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE
CANAL ZONE

SEPTEMBER 27, 1945.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

Mr. BRYSON, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany S. 565]

The Committee on the Judiciary, to whom was referred the bill (S. 565) to extend the privilege of retirement to the judges of the District Court for the District of Alaska, the District Court of the United States for Puerto Rico, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone, after consideration, report the same favorably to the House with an amendment, with the recommendation that, as amended, the bill do pass.

The committee amendment is as follows:

On page 2, line 10, strike out the word "ten" and insert in lieu thereof "eight".

Under existing law the privilege of retirement is made available to justices and judges of the Supreme Court, the circuit courts of appeals, and the district courts of the United States, upon attaining the age of 70 and having served in such office for 10 years or more. In addition, the privilege is made available to justices and judges of the various courts created for the Territory of Hawaii. The committee feel that the privilege of retirement should be extended to include the other Territories and possessions of the United States.

In order to attain eligibility for retirement under the reported bill, a judge must have rendered a minimum of 8 years' judicial service, and have attained the age of 70 years. Retirement pay is to be computed with reference to salary at time of retirement on the basis of

the relationship which the number of years' service bears to 16. That is, if the judge has served 8 years, his retirement pay will be eight-sixteenths of the salary of which he was in receipt at the date of his retirement; if he had served 14 years, his retirement pay would be fourteen-sixteenth of his salary, etc., provided that in no case is the amount of the retirement pay to be more than the amount of the salary at the time of retirement.

This legislation has been recommended by the Attorney General and the Director of the Administrative Office of the United States Courts in the following letters:

AUGUST 31, 1945.

HON. HATTON W. SUMNERS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: I desire to present my views concerning a bill (S. 565) to extend the privilege of retirement to the judges of the District Court for the District of Alaska, the District Court of the United States for Puerto Rico, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone.

All Federal judges have certain retirement privileges (28 U. S. C. 375). By the act of May 31, 1938 (52 Stat. 591; 48 U. S. C. 634 (b) and 634 (c)), the Congress accorded retirement privileges to justices of the Supreme Court of the Territory of Hawaii and judges of the United States District Court for the Territory of Hawaii. The act provided that if any of these justices or judges retire, resign, fail of reappointment, or are removed upon the sole ground of mental or physical disability, after attaining the age of 70 and serving at least 10 years, they shall receive a retirement annuity. The amount of the annuity is to equal such proportion of the judge's salary as the number of years of service bears to 16. The bill under consideration would extend the same rights to all other district court judges in the Territories and possessions.

No reason appears why the privilege of retirement should not be accorded to the district court judges in all Territories and possessions. The same considerations are applicable in all such situations. A district judge in one of the Territories or possessions who serves for a considerable period and has reached the age of 70 should be accorded some financial security.

Accordingly, I recommend the enactment of the bill.

I have been advised by the Director of the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

TOM C. CLARK, *Attorney General.*

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., May 17, 1945.

HON. HATTON W. SUMNERS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR JUDGE SUMNERS. I have received your letter of this date concerning a bill now pending before your Committee on the Judiciary (S. 565) to extend the privilege of retirement to the judges of the District Court for the District of Alaska, the District Court of the United States for Puerto Rico, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone, corresponding with the privilege now given to the judges of the United States District Court and the Supreme Court of the Territory of Hawaii. The measure is one which has been recommended by the Judicial Conference of Senior Circuit Judges and I regard the bill as sound and its passage as desirable.

As far back as its annual meeting in September 1942 the Judicial Conference approved the extension to the judges of the district courts of the other Territories and insular possessions of the retirement privileges granted to the judges of the United States District Court and the Supreme Court of the Territory of Hawaii by an act approved May 31, 1938 (52 Stat. 591; 48 U. S. C. 634 (b) and 634 (c)). This is the effect of the pending bill.

The retirement plan now provided for the judges of the specified courts of the Territory of Hawaii enables a judge of those courts to retire upon reaching the age of 70. If he has served in either of the courts mentioned for 10 years or more, whether continuously or not, he is entitled to receive annually for the remainder of his life a sum equal to such proportion of his salary received at the time of his retirement as his aggregate years of service bear to the period of 16 years, provided that in no event shall his retirement pay be in excess of his salary at the time of his retirement. The pending bill would extend the same privilege to the judges of the district courts in the other Territories and insular possessions.

There is no sound basis for the present discrimination between the judges of the courts of the Territory of Hawaii and the other corresponding courts outside of continental United States and in justice it should be removed. Although the judges of the Territorial courts are appointed for terms of years rather than during good behavior, fortunately the reappointment of judges making good records is common and there is no good reason why judges who in fact serve for long periods in the Territorial courts should not enjoy the retirement privilege that is given to the judges of other Federal courts performing comparable service. Under the bill no judge would receive retirement pay unless he had served as a judge of the court at least 10 years, and this is believed sufficient to entitle him in fairness to retirement pay after he has reached the age of 70 years.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

In compliance with clause 2a of rule XIII of the House of Representatives, existing law is printed below in roman with matter proposed to be omitted enclosed in black brackets and new matter proposed to be added printed in italics:

Section 1 of the act entitled "An Act relating to the retirement of the justices of the Supreme Court of the Territory of Hawaii and judges of the United States District Court of the Territory of Hawaii", approved May 31, 1938 (52 Stat. 591; 48 U. S. C. 634b and 634c), is amended to read as follows:

That every justice of the Supreme Court of the Territory of Hawaii, and every judge of the United States District Court for the Territory of Hawaii, *the District Court for the District of Alaska, the District Court of the United States for Puerto Rico, the District Court of the Virgin Islands, and the United States District Court for the District of the Canal Zone*, may hereafter retire after attaining the age of seventy years. If such justice or judge retires after having served as a justice or judge of [either] any of the afore-mentioned courts for a period or periods aggregating ten years or more, whether continuously or not, he shall receive annually in equal monthly installments, during the remainder of his life, a sum equal to such proportion of the salary received by such justice or judge at the date of such retirement as the total of his aggregate years of service bears to the period of sixteen years, the same to be paid by the United States in the same manner as the salaries of the aforesaid justices and judges: *Provided, however*, That in no event shall the sum received by any such justice or judge hereunder be in excess of the salary of such justice or judge at the date of such retirement.

Section 2: Section 2 of the act entitled "An Act relating to the retirement of the justices of the Supreme Court of the Territory of Hawaii and judges of the United States District Court for the Territory of Hawaii," approved May 31, 1938 (52 Stat. 591; 48 U. S. C. 634b and 634c), is amended to read as follows:

In computing the years of service under this Act, service in [either] any of the aforesaid courts shall be included whether such service be continuous or not and whether rendered before or after the enactment hereof. The terms "retire" and "retirement" as used in this Act shall mean and include retirement, resignation, failure of reappointment upon the expiration of the term of office of an incumbent, or removal by the President of the United States upon the sole ground of mental or physical disability.

Section 3: The title of the act entitled "An Act relating to the retirement of the justices of the Supreme Court of the Territory of Hawaii and judges of the United States District Court for the Territory of Hawaii", approved May 31, 1938 (52 Stat. 591; 48 U. S. C. 634b and 634c), is amended to read as follows:

An Act relating to the retirement of *certain* [the] justices [of the Supreme Court of the territory of Hawaii] and judges [of the United States District Court for the territory of Hawaii] in the various Territories and possessions.

