

APPEALS FROM ALASKA AND THE VIRGIN ISLANDS TO CIRCUIT COURTS OF APPEALS IN CASES INVOLVING LESS THAN \$1,000

JUNE 3, 1938.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed

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

REPORT

[To accompany S. 3469]

The Committee on the Judiciary, to whom was referred the bill
(S. 3469) to amend section 128 of the Judicial Code, as amended,
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:

Page 1, line 3, strike out "paragraph 'Third' of".

There is now no right of appeal to any court from decisions of the
District Court of Alaska, or the District Court of the Virgin Islands,
in civil cases, not involving a Federal question, wherein the amount
in controversy is less than \$1,000.

GENERAL STATEMENT

The purpose of the bill is to permit appeals from the United States
District Court of Alaska to the United States Circuit Court of Appeals,
Ninth Circuit, of civil causes in which the amount in controversy may
be less than \$1,000. The present law on the point is that the value in
controversy in a civil cause, exclusive of interest and cost, must exceed
\$1,000 before an appeal is allowable, and the bill merely strikes out
that limitation in amount.

The bill has the approval of the Department of Justice, and the
Bureau of the Budget has no objection to its passage. The following

letter from the Attorney General of the United States is made a part of this report:

MARCH 21, 1938.

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

MY DEAR MR. CHAIRMAN: I have your letter of November 16 requesting my views relative to the bill (H. R. 8342) to extend the right of appeal from decisions of the District Court for the District of Alaska.

The Circuit Court of Appeals for the Ninth Circuit has appellate jurisdiction to review final decisions of the District Court for Alaska in all criminal cases, in all habeas corpus proceedings, in all civil cases wherein the Constitution or a statute or treaty of the United States is involved; and in all other civil cases wherein the value in controversy exceeds \$1,000 (Judicial Code, sec. 128; U. S. C., title 28, sec. 225). Thus, under existing law, there is no right of appeal from final decisions of the District Court for Alaska, in cases not involving a Federal question, if the value of the matter in controversy does not exceed \$1,000.

The bill under consideration proposes to extend the appellate jurisdiction of the circuit court of appeals to all cases decided by the District Court of Alaska. I approve this amendment, as it is proper to accord every defeated litigant one appeal as of right.

The above-mentioned provisions of the Judicial Code contain similar regulations as to appeals to the Circuit Court of Appeals for the Third Circuit from final decisions of the District Court of the Virgin Islands. It appears desirable to extend the right of appeal from final decisions in the last-mentioned court, in a similar manner, and I recommend that the bill be amended to accomplish such purpose.

For your convenience I enclose herewith a revised draft of the bill to carry out the above-mentioned suggestions and also to effect minor formal changes in the phraseology of the statute.

If the bill is amended in the manner indicated, I recommend its enactment.

I am informed by the Acting Director of the Bureau of the Budget, that there is no objection to the submission of this report.

Sincerely yours,

HOMER CUMMINGS,
Attorney General.

The investigation into the number of civil and criminal cases ordinarily appealed annually from the District Court of Alaska shows that the average number is six. It is evident, therefore, that the extension of the right in civil cases will not increase materially the work of the circuit court of appeals, nor add anything to the cost of operating any of the courts affected.

The following letter from the Delegate from Alaska to the chairman of the Committee on the Judiciary sets forth the reasons for the existing law, which was passed in 1891, and the grounds supporting passage of the pending bill, as well as views of the lawyers, judges, and citizens of Alaska on this subject:

HOUSE OF REPRESENTATIVES,
 Washington, D. C., May 28, 1938.

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

DEAR CHAIRMAN SUMNERS: Recently the subcommittee, of which Mr. Chandler is chairman, gave consideration to H. R. 10245 and to the identical companion bill, S. 3469, which passed the Senate on May 5, designed to amend section 128 of the Judicial Code so as to provide for appeals in all civil cases from the District Courts of Alaska and of the Virgin Islands.

The District Court of Alaska is a court of general jurisdiction and possesses all of the jurisdiction of district courts of the United States and of State courts of general jurisdiction. Civil cases of all kinds, irrespective of the amount involved, may be tried in the District Court of Alaska, either originally or upon appeal from the courts of the justices of the peace. Appeals from the judgments of the

District Court of Alaska may now be taken in all civil cases wherein the constitution or a statute or treaty of the United States or any authority exercised thereunder is involved, and in all other civil cases wherein the value in controversy, exclusive of interest and cost, exceeds \$1,000.

While the jurisdictional limit of \$1,000 with respect to appeals in the classes of civil cases mentioned may have been originally set up by reason of the comparative isolation of Alaska from the United States, that reason no longer exists, because in recent years transportation facilities have much improved. The citizens of Alaska who have had occasion to consider the subject are, I am convinced, generally of the opinion that the jurisdictional limit should be removed from the law and that appeals should be allowed in all civil cases, the same as is the case with respect to appeals from the district courts of the United States. It is considered that the law acts in a discriminatory fashion against the individual who is obliged to litigate concerning amounts under \$1,000, and thus denies to the one who is comparatively poor, a right which is given to his wealthier neighbor.

Through the mailing out of copies of the original bill, H. R. 8342, soon after its introduction, and through press reports, the people of Alaska, including the lawyers, have been fully informed of the proposed legislation. However, in order to be sure that the members of the bar of the District Court of Alaska generally understand the measure under consideration, under date of May 26, I telegraphed the bar associations of the cities of Ketchikan, Juneau, Cordova, Seward, Fairbanks, Anchorage, and Nome, those being the only cities of Alaska where bar associations exist, asking them to advise me of their views on the bill. Telegraphic replies have been received from the Bar Associations of Ketchikan, Juneau, Cordova, Seward, and Nome; and the original telegrams, as well as a copy of my telegram to the several bar associations, are attached hereto. You will note that the bar associations replying unanimously favor the immediate passage of the bill. While no response has yet been received from the Bar Associations of Fairbanks and Anchorage, I am confident that the members of those associations entertain a like view of the legislation.

The Senate bill, as you will observe, embraces the amendments to the original bill suggested by the Attorney General. You will further note that the Attorney General approves the measure in its present form. I respectfully request a favorable report upon the Senate bill at the earliest convenient date.

It I receive any further information on the subject, I will pass it on to you forthwith.

Sincerely yours,

A. J. DIMOND, *Delegate.*

JUNEAU, ALASKA, May 26, 1938.

A. J. DIMOND,

Representative from Alaska, Washington, D. C.:

Juneau Bar Association urges approval and prompt passage of law providing for appeals from District Court of Alaska to United States Circuit Court of Appeals in all civil cases without regard to amount involved. This is now the law in all district courts in United States and in line with all Federal procedure. Present law regarding appeals works great hardship on many litigants, especially where amount might be relatively small but of utmost importance to certain litigants. We urge you use utmost effort secure passage proper legislation this session.

JUNEAU BAR ASSOCIATION.
LEFEVRE, *President.*
G. MONAGLE, *Secretary.*

CORDOVA, ALASKA, May 26, 1938.

A. J. DIMOND,

Washington, D. C.:

Cordova has association unanimously in favor immediate passage of your bill granting right of appeal in all cases without limit to amount in controversy and urges action be taken this session of Congress.

CORDOVA BAR ASSOCIATION.

SEWARD, ALASKA, May 26, 1938.

A. J. DIMOND,

Delegate, Washington, D. C.:

Seward Bar Association favors enactment law permitting appeals all civil cases without regard to amount involved, thus conforming to uniform law. Also we

favor introduction bill bringing Alaska within new and progressive advance in court procedure by means application rules governing civil procedure promulgated by United States Supreme Court especially, as all Federal decisions will now be predicated upon such rules. Regards.

SEWARD BAR ASSOCIATION,
By L. V. RAY.

NOME, ALASKA, May 26, 1938.

A. J. DIMOND,
Washington, D. C.:

A resolution was unanimously passed by the Nome Bar Association endorsing your bill providing for appeals from District Court of Alaska to United States Circuit Court of Appeals in all civil cases without regard to amount involved, which bill is now before House Judiciary Committee.

NOME BAR ASSOCIATION,
By HUGH O'NEILL, Vice President and Secretary.

KETCHIKAN, ALASKA, May 27, 1938.

ANTHONY J. DIMOND,
Delegate to Congress, Washington, D. C.:

Retel 26th, Ketchikan Bar Association unanimously in favor proposed legislation reference appeals from Alaska.

WALTER B. KING, Secretary.

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

That subsection (a) of section 128 of the Judicial Code, as amended (U. S. C., title 28, sec. 225 (a)), be, and it is hereby, amended to read as follows:

"(a) The circuit courts of appeal shall have appellate jurisdiction to review by appeal [or writ of error] final decisions—

"First. In the district courts, in all cases save where a direct review of the decision may be had in the Supreme Court under section 238.

"Second. In the United States district courts for Hawaii and for [Porto] Puerto Rico in all cases.

"Third. In the district [courts] court for the district of Alaska or any division thereof, and in the district court [for] of the Virgin Islands in all cases; [in all civil cases wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusion of interest and costs, exceeds \$1,000; in all criminal cases, and in all habeas corpus proceedings;] and in the United States District Court for the District of the Canal Zone in the cases and modes prescribed in sections 61 and 62, title 7, Canal Zone Code (48 Stat. 1122).

"Fourth. In the Supreme Courts of the Territory of Hawaii and of [Porto] Puerto Rico, in all [civil] cases, civil or criminal, wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interests and costs, exceeds \$5,000, and in all habeas corpus proceedings.

"Fifth. In the United States Court for China, in all cases."