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## BANKRUPTCY CASE FILES OF THE U.S. DISTRICT COURT FOR THE DISTRICT AND TERRITORY OF ALASKA, SECOND DIVISION (NOME), 1901B53

### Introduction

On the six rolls of this microfilm publication, M1966, are reproduced bankruptcy case files of the U.S. District Court for the District and Territory of Alaska, Second Division (Nome), 1901B53. These records are part of the Records of District Courts of the United States, Record Group (RG) 21, and are housed at the National Archives and Records Administration Pacific Alaska Region (Anchorage).

### Background

The Judiciary Act of September 24, 1789 (1 Stat. 73), provided for a system of district and circuit courts in addition to the Supreme Court of the United States. The act divided the country into 13 districts, each with a district court and district judge. These districts were grouped into circuits. A circuit court, made up of the district judge and two Justices of the Supreme Court, was to convene twice a year in each district. By an act of 1802 (2 Stat. 156), the district judge and one Supreme Court Justice were assigned to each circuit court.

The Judiciary Act of 1789 outlined the jurisdiction of both the district and circuit courts. They shared original jurisdiction in certain types of cases, but the district court had exclusive jurisdiction over admiralty and maritime cases, seizures of land, suits for penalties and forfeitures incurred under the laws of the United States, and suits against consuls and vice consuls. The jurisdictions of the district and circuit courts varied over the years. Generally, however, district courts were courts of original jurisdiction with authority to hear criminal, admiralty, and bankruptcy cases; circuit courts heard appeals from district courts and had original jurisdiction in law and equity cases involving suits in excess of \$500 in which the United States, an alien, or citizens of different states were parties.

The organization of the district courts has remained substantially unchanged since 1789. As a rule, each judicial district had a single district judge until the increase in population and the resulting increase in workload made it necessary to appoint two or more judges for each district. From time to time the number of judicial districts and district judges increased. The Judicial Code of 1911 (36 Stat. 1105) grouped 78 districts into 9 judicial circuits.

Under the constitutional provision that Congress shall have the power to establish "uniform Laws on the subject of Bankruptcies throughout the United States" (article 1, section 8), four national bankruptcy laws have been enacted. Each of the laws was enacted shortly after a period of business depression. The act of 1800 followed the business disturbances of 1797; the act of 1841, the Panic of 1837; the act of 1867, the depressed economic conditions of the post-Civil War period; and the act of 1898, the Panic of 1893 and

the subsequent years of depression. Until 1898 national bankruptcy legislation was considered an emergency device, and the first three bankruptcy laws were each repealed when business conditions generally improved. The first was repealed in 1803, the second in 1843, and the third remained in effect for only 11 years. Only since 1898 has bankruptcy legislation been permanent. The act of 1898 is still in force, although it has been amended from time to time. Under each of the acts, original jurisdiction was assigned by Congress to the U. S. district courts, except that under the act of 1800 jury trials of bankruptcy claims could be held in the United States circuit courts until April 29, 1802, when this function was transferred to district courts. Under the first three acts, appellate jurisdiction in bankruptcy controversies was vested in the circuit courts. When the act of 1898 was approved, all appellate jurisdiction had been fixed in circuit courts of appeals. Detailed statements about the background, provisions, and operation of each of the bankruptcy acts are given below.

The national bankruptcy act, approved on April 4, 1800 (2 Stat. 19), provided for an effective period beginning June 2, 1800, and continuing for five years. It applied only to merchants or other persons residing in the United States who were engaged in the wholesale or retail merchandise trade or who dealt in exchange or as a banker, broker, factor, underwriter, or marine insurer. The act provided for compulsory or involuntary bankruptcy, but not for voluntary bankruptcy. It recognized only two acts of bankruptcy: fraudulent conveyance or concealment of a person or his property and failure to dissolve attachments within two months. Discharge of the bankrupt from his debts required the consent of creditors having claims of more than \$50 each, who together held at least two-thirds of the claims in number and amount. The act was administered under the direction of the district courts by commissioners, who at first were appointed by the district judge but later by the President (2 Stat. 164), and assignees who were elected by the creditors at their first meeting. Because of its limited applicability and for other reasons, the act was repealed on December 19, 1803 (2 Stat. 248), months before its expiration date, although the repealing act provided for the execution of any commission of bankruptcy issued before its passage.

The second national bankruptcy act was passed on August 19, 1841 (5 Stat. 440), and took effect on February 1, 1842. The shortest lived of the Federal bankruptcy laws, it was repealed on March 3, 1843 (5 Stat. 614). The law allowed voluntary bankruptcy to all debtors but limited involuntary bankruptcy to merchants, bankers, factors, brokers, and traders. Although it eliminated the requirement of the consent of the creditors for a discharge, creditors holding a majority in number and amount of claims could block a discharge by written dissent. The bankrupt could obtain his discharge through a jury trial if the jury found that he had surrendered all his property and had fully complied with the orders of the court. The act was administered by commissioners and assignees, all whom were appointed by the district judge.

On March 2, 1867, Congress approved the Nation=s third bankruptcy act (14 Stat. 517). The principal feature of the law was its extension of involuntary bankruptcy to all classes of debtors. No discharge was to be granted without the consent of a majority of the creditors if the bankrupt=s assets did not pay 50 percent of the debts, but this provision was not to apply to any bankruptcy proceedings begun within one year after the approval of the act. To assist district judges in the administration of the law, the act provided for the appointment by the court of registers in bankruptcy. The registers were authorized to make adjudications of bankruptcy, hold and preside at meetings of creditors, take proofs of debts, make computations of dividends, and otherwise dispatch the administrative business of the court in bankruptcy matters, but only when there was no opposing interest. In cases where opposition to an adjudication or a discharge arose, the controversy was to be submitted to the court. The act was an unpopular measure and despite several amendments to correct its objectionable features, it was repealed on June 7, 1878 (20 Stat. 99).

The fourth national bankruptcy act was approved by Congress on July 1, 1898 (30 Stat. 544). It provided that anyone owing debts, except a corporation, was entitled to the benefits of the law as a voluntary bankrupt; and anyone, except wage earners or farmers or certain types of corporations, owing debts of \$1,000 or more could be adjudged an involuntary bankrupt. A certificate of discharge was denied only when the applicant had committed an offense punishable by imprisonment as provided by the law or, with fraudulent intent to conceal his true financial condition and in contemplation of bankruptcy, had concealed, destroyed, or failed to keep records of accounts. The act created the offices of referee and trustee. Referees were to be appointed by the court and vested with jurisdiction to make adjudications of bankruptcy or dismiss the petitions, and perform such other duties, except as to opposition arising out of applications for composition or discharge, as were conferred by the act on courts of bankruptcy. Trustees were to be appointed by creditors at their first meeting. The act was amended from time to time and substantially revised by the so-called Chandler Act of June 22, 1938 (52 Stat. 840).

### Alaska Court History

From the purchase of Alaska in 1867 to its organization by Congress as a civil district in 1884, there were no courts in the vast territory acquired from Russia. In 1868 Congress extended to the new land the laws of the United States relating to commerce, navigation, and customs and specifically stated that violations would be prosecuted in the Federal courts of California, Oregon, or Washington. It also gave those courts original jurisdiction in Alaskan cases. The U.S. Army exercised practical jurisdiction until 1877 when the War Department withdrew its garrisons. From 1879 until the creation of the first civil government in 1884, authority rested with the U.S. Navy. During the years between 1877 and 1879, such government authority as existed at all lay with the collector of customs and, for a brief time, with the HMS *Osprey*. In 1884, as part of the civil organization established by the Organic Act (23 Stat. 24), Congress created one judicial district for all of Alaska and directed that a term of the court be held each year in Sitka and in Wrangell. In addition, the Organic Act authorized the court to maintain offices in Juneau City and AOonalashka. U.S. Commissioners authorized for each of these four towns had civil and criminal powers similar to those conferred on justices of the peace in Oregon. The U.S. District Court for the District of Alaska first met on November 4, 1884, at Sitka. (See Appendix I.)

Sparked by the gold rushes, Alaska=s population underwent explosive growth after 1900. By an act of Congress on June 6, 1900 (31 Stat. 321-322), Alaska was divided into three judicial divisions with headquarters at Juneau, Saint Michael (at the mouth of the Yukon River), and Eagle City (closest American town to the initial gold strikes). The First Division, comprising southeast Alaska, encompassed the region east of 141' west longitude. The Second Division included all of northwest Alaska from where the Colville River emptied into the Arctic Ocean, roughly halfway between the Canadian boundary and Point Barrow, then south and west to Kuskokwim Bay, encompassing almost all the Bering Sea and Arctic Ocean coasts. The Third Division encompassed all of the areas not included within the First or Second Divisions. Generally, this meant a long corridor between the Canadian boundary at 141' W on the east to the border with the Second Division on the west and from the Pacific to the Arctic Ocean. It also included the 2000-mile stretch of the Alaska Peninsula and Aleutian Islands.

This three-part structure remained in existence until 1909 when a fourth judicial division was created by slicing off the top two-thirds of the Third Division. The reduced Third Division=s headquarters were relocated to Valdez. The new Fourth Division=s boundaries consisted of all areas lying east of the Second Division, north of the Third, and west of 141' W. The court seat was at Fairbanks. On July 7, 1958, Congress passed the Alaska Statehood Act (72 Stat. 348) and constituted a U.S. district court for the new

state. During the transition period, the territorial court was authorized to operate for up to a 3-year period unless the President proclaimed that the U.S. district court was prepared to assume its functions. The four-part structure was dissolved and a single judicial district for the State of Alaska was authorized pending the admission of Alaska as a state. The structure of the territorial court continued to meet and keep offices at Anchorage, Fairbanks, Juneau, and Nome. On February 20, 1960, President Dwight D. Eisenhower declared the U.S. District Court for the District of Alaska in operation (E.O. 10867, 3 CFR).

At the time the Second Division was constituted at St. Michael, the old Russian outpost had become the key point of transit between the ocean and the Yukon River route to the Klondike. In 1898 prospectors discovered rich deposits of gold in the rivers and on the beaches of the southwestern edge of the Seward Peninsula in the vicinity of Cape Nome. Anvil City, a boom town of 10,000 people, sprang up literally overnight. In 1899 Anvil City merchants changed the town's name to Nome after the nearby cape. By 1900 Nome had eclipsed St. Michael as the seat of governmental authority, and the U.S. District Court relocated there. The earliest cases extant for this division originated in St. Michael and were continued in Nome.

### Records Description

In 1934 fire destroyed downtown Nome, including most government offices. Many court records survived but were so badly damaged by scorching and desiccation that they have been closed to research. The records reproduced in this and related microfilm publications are the court case files that survived the fire. The uneven darkening of the paper has, in some cases, left the documents barely legible. Desiccation and the subsequent flaking and cracking of extremely brittle paper has, in some instances, caused portions of documents to be lost. The material reproduced in this microfilm publication was given extensive conservation treatment and placed in stabilizing polyester film sleeves. The original records remain closed to research.

This microfilm publication reproduces 40 bankruptcy cases heard by the U.S. District Court in Nome between 1901 and 1953. The following bankruptcy cases are missing and are presumed to have been destroyed in the 1934 Nome fire: cases 1-16, 33, 42-378, 380-478, 480-832, 834-848, 850-890, 892-1030, 1032-1091, 1093-1094, 1096-1171, 1173-1226, 1228-1366, 1368-1551, 1553-1556, 1558-1609, 1611-1657, and 1659-1794. Although there are large sequences of missing cases, it is not known if these were the only bankruptcy cases on deposit in Nome at the time of the fire nor is it known if any documents within an extant file are missing. The case files are arranged by case number assigned in order of receipt of creditors' petitions. Within each case file, documents are arranged chronologically by date of initial filing. To minimize handling of the fragile records, documents within a case have been restored to approximate, not precise, chronological order.

In spite of these caveats, researchers can find a wealth of material on gold rush Nome, including names of people in the area, businesses and mines, lists of cargoes and to whom shipped, depositions describing regional conditions, and similar historical evidence. A typical bankruptcy case might include creditors' petitions against debtors; affidavits of printers certifying proof of publication of bankruptcy notices; statements of publication with newspaper clippings from the *Nome Nugget* attached; warrants to seize estates and property of bankrupts; oaths, depositions, affirmations, affidavits, and proofs of debt by petitioners or creditors; orders, oaths, and certificates of trustees appointed to inquire into bankruptcy matters; notices to bankrupts to appear and surrender and notices of surrender; notices to creditors to appear and be heard to prove debts and appoint assignees; memorandums and reports relating to the examination of debtors; exhibits presented by debtors at examinations, containing statements of debts due

and owned by them, general accounts of business profits and losses, and inventories of their monies and property; reports of trustees in bankruptcy; declarations adjudging debtors bankrupt; reports of provisional, permanent, and new assignment of estates and effects of bankrupts; transcripts of minutes of case proceedings; judgments; memorandums appointing arbitrators to settle disputes arising between assignees and persons having claims against bankrupts; and certificates of conformity of discharge. There are also indentures, subpoenas, bonds for the security of costs, bonds to prove bankruptcy, powers of attorney, orders for a dividend, and certificates of discharge.

Appendix II contains a list of the case files arranged alphabetically by name of bankrupt (the first-named bankrupt when there is more than one). This alphabetical list follows the case file list in the Contents section.

### Related Records

The Pacific Alaska Region (Anchorage) of the National Archives and Records Administration (NARA) holds bankruptcy case files from the First, Second, Third, and Fourth Divisions of the U.S. District Court for the District and Territory of Alaska (1900B60) and for the U.S. District Court for the District of Alaska (1960B73). They are all part of Record Group 21, Records of District Courts of the United States. In the same record group from the First Division are bankruptcy case files filed at Juneau, 1945B55, and a bankruptcy docket, 1905B60. The bankruptcy records from the Third Division consist of bankruptcy cases filed at Anchorage, 1935B55; mixed bankruptcy, civil, and criminal case files filed at Cordova, 1911B43; mixed bankruptcy, civil, and criminal cases filed at Seward, 1911B41; mixed bankruptcy and civil cases filed at Valdez, 1902B39; and bankruptcy dockets, 1910B60, for cases filed at Valdez and Anchorage. The bankruptcy records from the Fourth Division consist solely of bankruptcy cases filed at Fairbanks, 1908B60; Ruby, 1913B16; and at Iditarod, 1912. There are later bankruptcy records from the District of Alaska for bankruptcy cases filed at Fairbanks, 1960B73.

In Record Group 21, there are other microfilm publications concerning Alaska district courts. Indexes to naturalization records for the U.S. District Court in Anchorage have been reproduced as M1788, *Indexes to Naturalization Records of the U.S. District Court for the District, Territory, and State of Alaska (Third Division), 1903B91*. Indexes to declarations of intention filed in Juneau and Skagway are reproduced as M1241, *Indexes to Naturalization Records of the U.S. District Court for the District and Territory of Alaska, 1900B29*. Naturalization records, predominantly from Fairbanks (including a few Nome residents) and Juneau but also small quantities of records from Circle City, Iditarod, Ruby, and Skagway, are reproduced as M1539, *Naturalization Records of the U.S. District Courts for the State of Alaska, 1900B24*. The admiralty case files for Nome are being reproduced as M1967, *Admiralty Case Files of the U.S. District Court for the District and Territory of Alaska, Second Division (Nome), 1899B1950*. The civil case files for Nome are being reproduced as M1968, *Civil Case Files of the U.S. District Court for the District and Territory of Alaska, Second Division (Nome), 1908B55*. In the future, the criminal cases of the court in Nome will be reproduced as M1969, *Criminal Case Files of the U.S. District Court for the District and Territory of Alaska, Second Division (Nome), 1900B55*.

The Alaska State Archives in Juneau holds draft copies of quarterly and annual bankruptcy reports, 1903B37, submitted by the U.S. District Court, Second Division, to the U.S. Department of Justice on the status of bankruptcy cases before the court. There are also seven numbered and unnumbered bankruptcy cases (26-B, 27-B, 28-B, 29-B, 40-B, unnumbered and numbered Cordovado Gold Dredging Company, 3239 and 3242) filed between 1926 and 1937 in this repository.

For reports of U.S. district courts, additional information is available in the following multi-volume publications from West Publishing Company, St. Paul, Minnesota:

*Federal Reporter*, 1,299 volumes, published 1880B1988. These volumes cover cases from U.S. district courts from 1880 to 1988; thereafter see *Federal Supplement*, 670 volumes, published 1988 to the present.

*Federal Cases*, 30 volumes, published 1894B1897. An annotated reprint of the decisions of the U.S. district and circuit courts from 1789 to 1889.

*Alaska Reports*, 17 volumes, publication dates vary by volume. These reports contain decisions of the district courts of Alaska and all Alaska cases appealed to the Ninth Circuit Court of Appeals and the U.S. Supreme Court from 1869 to 1958.

*Alaska Federal Reports*, 5 volumes, publication dates vary by volume. The reports cover the period from 1869 to 1937.

Another useful source is Lafayette Dawson=s *List of Cases Reported from the District Court of Alaska* (Maryville, MO: Republican Office, 1888). This volume covers cases from March 13, 1886, to August 25, 1888.

This microfilm publication is part of a project to reproduce existing U.S. district court records for the Second Division that were damaged in the 1934 Nome fire and that are now among the holdings of the National Archives of the United States. The project was originally suggested by Frank Murkowski, U.S. Senator from Alaska, who obtained Federal appropriations to conserve the damaged records. Conservation work was performed by John Hedger and Caitlen Jeffery under the direction of Jane Klinger Freeman and Kathy Orlenko. The microfilm project was funded through Federal appropriations recommended by Ted Stevens, U.S. Senator from Alaska, as part of a larger Federal effort to commemorate the 100th anniversary of the Alaska gold rushes (1896B1914), and is the result of joint planning with NARA.

## APPENDIX I

### Organization of the Alaska Courts

<u>Place</u>	<u>Date</u>	<u>Terms</u>	<u>Division</u>	<u>Authority</u>
Sitka Wrangell	1884-1900	1		23 Stat. 24
Juneau Skagway/ St. Michael Eagle City	1900-1902	2 each	1 2 3	31 Stat. 321-322
Nome Valdez Fairbanks	1909	1	2 3 4	35 Stat. 585

Anchorage      1943                      1                      3                      57 Stat. 592

*Boundaries established for the three divisions (32 Stat. 385, 1902).*

*Floating courts operate in Divisions 2-4, intermittently, from 1901-1950's.*

*Division boundaries modified, remain fixed until 1943 (41 Stat. 1203-1204, 1921).*

*Effective with admission of Alaska as a state, division boundaries are ended and one judicial district, the District of Alaska, is authorized by Congress with seats in Anchorage (headquarters), Fairbanks, Juneau, and Nome (72 Stat. 348, 1958).*

## **APPENDIX II**

### Alphabetical List of Bankruptcy Cases

The numbers in parentheses after each name of bankrupt indicate the roll on which records relating to that bankrupt can be found.

#### Name of Bankrupt (roll number); case number

Bahlke, Anton (3); 38  
Barrieau, W.A. (5); 833  
Chambers, George Clayton (5); 891  
Dalquist, Charles (3); 36  
Deschamps, Samuel (6); 1095  
De Soto Placer Mining Company (6); 1092  
Donohoe, Hugh F. (2); 25  
Finklestein, Mr. (6); 1552  
Furland, Ludwig (2); 24  
Gibney, Barney (6); 1172  
Gibson, James A. (5); 849  
Hansen, A.M. (3); 31  
Hendrickson, Nic (2); 24  
Herd, Fred (1); 21  
Johnson, Charles (1); 19  
Johnson, Emil (2); 24  
Kern, Henry (2); 27  
Knox, Milo (roll 6); 1795  
Knox, William (6); 1795  
Kugruk Mines, Inc. (4); 39  
Lepri, John (3); 34  
Lord, Alexander Edwin (4); 41  
McCarthy and Panos, Inc. (3); 37  
McKay, Nash (5); 1031  
Miller, B.F. (6); 1610

Nelson, Gust (6); 1227  
 Nichols, Ben C. (5); 379  
 G. Nielsen and Company (1); 19  
 Nielson, Gus (1); 19  
 Nilson, Nils (2); 24  
 Nyhus, Otto (1); 19  
 Olsen, A.W. (1); 22  
 Overman, Leigh (5); 479  
 Parker, J.P. (1); 20  
 Peterson, J.A. (1); 18  
 Pigeon, Harry (1); 17  
 Polson, Albin (4); 40  
 Porter, F.B. (6); 1367  
 Porter, H.H. (3); 32  
 Ryan, Bartlett (2); 29  
 Seifert, Gustav (5); 849  
 Seliner, William (6); 1557  
 Seward Peninsula Mining Company (6); 1658  
 Sommers, R.J. (1); 22  
 Stevens, S.H. (2); 23  
 Thompson, Severin (2); 28  
 Traeger, Charles A. (2); 30  
 Vallier, T.J. (1); 22  
 Wittenberg, A. (2); 26  
 Yenney, Fred W. (3); 35

## CONTENTS

<u>Roll</u>	<u>Case; Name of Bankrupt</u>
1	1-16; Files are missing (FAM) 17; Harry Pigeon 18; J.A. Peterson 19; G. Nielsen and Company, Gus Nielson, Otto Nyhus, and Charles Johnson 20; J.P. Parker 21; Fred Herd 22; A.W. Olsen, T.J. Vallier, and R.J. Sommers
2	23; S.H. Stevens 24; Nils Nilson, Emil Johnson, Nic Hendrickson, and Ludwig Furland 25; Hugh F. Donohoe 26; A. Wittenberg 27; Henry Kern 28; Severin Thompson 29; Bartlett Ryan 30; Charles A. Traeger
3	31; A.M. Hansen 32; H.H. Porter 33; FAM



34; John Lepri  
 35; Fred W. Yenney  
 36; Charles Dalquist  
 37; McCarthy and Panos, Inc.  
 38; Anton Bahlke  
 4 39; Kugruk Mines, Inc.  
 40; Albin Polson  
 41; Alexander Edwin Lord  
 42-378; FAM  
 5 379; Ben C. Nichols  
 380-478; FAM  
 479; Leigh Overman  
 480-832; FAM  
 833; W.A. Barrieau  
 834-848; FAM  
 849; Gustav Seifert and James A. Gibson  
 850-890; FAM  
 891; George Clayton Chambers  
 892-1030; FAM  
 1031; Nash McKay  
 1032-1091; FAM  
 6 1092; De Soto Placer Mining Company  
 1093-1094; FAM  
 1095; Samuel Deschamps  
 1096-1171; FAM  
 1172; Barney Gibney  
 1173-1226; FAM  
 1227; Gust Nelson  
 1228-1366; FAM  
 1367; F.B. Porter  
 1368-1551; FAM  
 1552; Mr. Finklestein  
 1553-1556; FAM  
 1557; William Seliner  
 1558-1609; FAM  
 1610; B.F. Miller  
 1611-1657; FAM  
 1658; Seward Peninsula Mining Company  
 1659-1794; FAM  
 1795; William Knox and Milo Knox

Bankruptcy docket, case numbers 1-40 only, 1901B44. 1 volume.