

## CHAPTER XXXI.

[S. B. No. 101.]

## RELATING TO APPEALS TO THE SUPREME COURT.

AN ACT to amend sections 6500, 6513 and 6514 of Ballinger's Annotated Codes and Statutes of Washington, relating to appeals to the Supreme Court.

*Be it enacted by the Legislature of the State of Washington :*

SECTION 1. That Section 6500 of Ballinger's Annotated Codes and Statutes of Washington, relating to appeals to the Supreme Court, be amended to read as follows: Section 6500. Any party aggrieved may appeal to the Supreme Court in the mode prescribed in this title from any or every of the following determinations, and no others, made by the Superior Court, or a judge thereof, in any action or proceeding.

Amendment.

Judgment.

(1) From the final judgment entered in any action or proceeding, and an appeal from any such final judgment shall also bring up for review any order made in the same action or proceeding either before or after the judgment, in case the record sent up on the appeal, or any supplementary record sent up before the hearing thereof, shall show such order sufficiently for the purposes of a review thereof.

(2) From any order refusing to vacate an order of arrest in a civil action.

(3) From an order granting or denying a motion for a temporary injunction, heard upon notice to the adverse party, and from any order vacating or refusing to vacate a temporary injunction: *Provided*, That no appeal shall be allowed from any order denying a motion for a temporary injunction, or vacating a temporary injunction unless the judge of the Superior Court shall have found upon the hearing, that the party against whom the injunction was sought was insolvent.

Proviso.

(4) From any order discharging or refusing to discharge an attachment.

(5) From any order appointing or removing, or refusing to appoint or remove, a receiver.

(6) From any order affecting a substantial right in Order. a civil action or proceeding, which either, (1) in effect determines the action or proceeding and prevents a final judgment therein; or (2) discontinues the action; or (3) grants a new trial; or (4) sets aside or refuses to affirm an award of arbitrators, or refers the cause back to them.

(7) From any final order made after judgment, Final order. which affects a substantial right; and an appeal from any such order shall also bring up for review any previous order in the same action or proceeding which involves the merits and necessarily affects the order appealed from, in case the record sent up on the appeal, or any supplementary record sent up before the hearing thereof, shall show such previous order sufficiently for the purposes of a review thereof. But an appeal Exception. shall not be allowed to the state in any criminal action, except when the error complained of is in setting aside the indictment or information, or in arresting the judgment on the ground that the facts stated in the indictment or information do not constitute a crime, or is some other material error in law not affecting the acquittal of a prisoner on the merits.

SEC. 2. That section 6513 of Ballinger's Annotated Codes and Statutes of Washington relating to appeals to the Supreme Court be amended to read as follows: Section 6513. Within ninety days after an appeal shall have been taken by notice as provided in this title, the clerk of the Superior Court shall prepare, certify and file in his office, at the expense of the appellant (except in criminal appeals prosecuted *in forma pauperis*, and in such cases at the expense of the county), a transcript containing a copy of so much of the record and files as the appellant shall deem material to the review of the matters embraced within the appeal, said transcript to be so prepared, certified and filed, in the office of the clerk, at or before the time when the appellant shall serve and file his opening brief, as hereinafter provided. Within four months after said appeal shall have been taken by notice as aforesaid, the clerk of the Superior Clerk of court to prepare transcript.

Court shall, at the expense of appellant, send up to the Supreme Court said transcript together with the original briefs on appeal filed in his office. The papers and copies so sent up together with any thereafter sent up as hereinbelow provided, shall constitute the record on appeal. Any bill of exceptions or statement of facts on file when the record is so sent up shall be sent up as a part thereof, unless the Superior Court or a judge thereof has not yet passed on an application for the settlement and certifying of such bill or statement. In case any bill of exceptions or statement of facts shall be filed or certified, or any other addition to the records or files shall be made after the record on appeal shall have been sent up, a supplementary record on appeal embracing so much thereof as the appellant deems material, or a copy thereof may be prepared, certified and sent up at any time prior to the hearing of the appeal. And in case the respondent deems any part of the files or record not already sent up to be material to the review of the matters embraced within the appeal, he may cause the clerk, in like manner, at his expense, to prepare, certify and send up a supplementary record on appeal embracing such omitted files or records, or copies thereof, at any time prior to the hearing of the appeal. Any such supplementary record or records, if filed in the Supreme Court prior to the hearing of the appeal, shall be considered by the court as part of the record on appeal, so far as the same may be material to a review of the matters embraced within the appeal. When the review of an original paper in the cause may be important to a correct decision of the appeal, the court or judge may order the clerk to transmit the same to the clerk of the Supreme Court and the same shall be transmitted accordingly, and shall be under the control of the Supreme Court.

Any bill of exceptions to be part.

Supplementary record.

SEC. 3. That Section 6514 of Ballinger's Annotated Codes and Statutes of Washington, relating to appeals to the Supreme Court be amended to read as follows: Sec. 6514. Within ninety days after an appeal shall have been taken by notice as provided in this title, the

Amendment.

appellant shall serve on the respondent three copies and shall file with the clerk of the Superior Court fifteen copies, together with proof or written admission of service, as aforesaid, of a printed brief on the appeal upon his part, which brief shall clearly point out each error that the appellant relies on for a reversal, and shall conform to such regulations of its contents in other respects, and its form and size, as the Supreme Court by its rules may have prescribed. Within thirty days after the service of the appellant's brief, the respondent shall likewise serve and file with the clerk of the Superior Court, with like proof of service, the like numbers of copies of a printed brief on the appeal upon his part which shall likewise conform to the rules of the Supreme Court. Not less than ten days prior to the hearing the appellant may also serve and file either with the clerk of the Superior Court or in the Supreme Court like printed brief or briefs, strictly in reply to respondent's brief. The time for service and filing of briefs, as in this section prescribed, may be extended by order of the Superior Court for good cause shown, or by stipulation of the parties concerned; and if the time for filing any statement of facts shall be extended by order or stipulation, the time herein prescribed for serving and filing the appellant's opening brief shall thereby be correspondingly extended. Either party may after the filing of his briefs and not less than one day prior to the hearing of the appeal submit to the Supreme Court and to the adverse party a written or printed statement of any additional authorities, with suitable comment thereon strictly in support of the position taken in his brief hereinabove required to be filed. But the appellant shall not be permitted to urge in any such reply brief or statement of additional authorities, or on the hearing, any grounds for reversal not clearly pointed out in his original brief.

Passed the Senate February 4, 1901.

Passed the House February 20, 1901.

Approved by the Governor, February 28, 1901.