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Eastern and northern judicial districts of Texas

48TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 797.

EASTERN AND NORTHERN JUDICIAL DISTRICTS OF TEXAS.

MARCH 18, 1884.—Referred to the House Calendar and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 6074.]

The Committee on the Judiciary, to whom were referred the bills Nos. 2813 and 3802, have had the same under consideration, and submit the following report and accompanying substitute, and recommend the passage of the substitute.

The subject-matter of the bills reported back to the House and the substitute recommended by the committee relate to the jurisdiction of the Federal courts for the western district of Arkansas over the Chickasaw and part of the Choctaw Nations in the Indian Territory, and the establishment of a new division in the eastern and northern judicial districts of the State of Texas.

All persons representing conflicting or other interests affected by the changes proposed in existing law, who desired to do so, have been permitted to submit their views to the committee, and, after an earnest and patient investigation, the committee reached the following conclusions:

1st. That all of the Chickasaw Nation in the Indian Territory and a part of the Choctaw Nation hereafter described should be detached from the western district of Arkansas, and attached to the eastern and northern judicial districts for the State of Texas.

2d. That there should be established a new division in the northern judicial district of the State of Texas, to be composed of the counties of Grayson, Cook, and Montague, and that all of the Chickasaw Nation and the following named counties of the Choctaw Nation—to wit, Gains and Tobucky, in the first judicial district of the Choctaw Nation, the counties of Blue, Atoka, and Jack's Forks, of the third judicial district of said nation—should be attached to the northern judicial district for the State of Texas for judicial purposes.

3d. That the counties of Fannin, Delta, and Lamar should be detached from the northern judicial district of the State of Texas, and that a new division in the eastern judicial district should be established, to be composed of the counties of Fannin, Delta, Lamar, and Red River, in the State of Texas, and that all that part of the Choctaw Nation embraced by the county of Kiamatia, and the counties comprising the second judicial district of the Choctaw Nation, should be attached to the eastern judicial district for the State of Texas for judicial purposes.

4th. That terms of the circuit and district courts of the United States of the eastern judicial district of the State of Texas should be held at the city of Paris, in the said county of Lamar, and that all pre-

cess, civil and criminal, cognizable before said courts, respectively, issued against persons residing in the said counties of Lamar, Fannin, Delta, and Red River, should be returnable to said courts to be held at said city of Paris, and that the district and circuit courts of the United States to be holden at Paris should have original and exclusive jurisdiction of all offenses against the laws of the United States now, or which may hereafter be of force in the Indian Territory, committed within that portion of the Choctaw Nation attached to the eastern judicial district for the State of Texas.

5th. That terms of the circuit and district courts of the United States for the northern judicial district for the State of Texas as should be held at the city of Denison, in the said county of Grayson, and that all process, civil and criminal, cognizable before said courts respectively, issued against persons residing in said counties of Cook, Grayson, and Montague, should be made returnable to the said courts, to be holden at the city of Denison, and that the courts to be holden at Denison should have original and exclusive jurisdiction of all offenses against the laws of the United States committed within the Chickasaw Nation and that part of the Choctaw Nation attached to the northern judicial district for the State of Texas.

Some of the controlling reasons that induce the committee to arrive at the foregoing conclusions will now be briefly stated.

The Federal court for the western judicial district for the State of Arkansas, held at the city of Fort Smith, now exercises jurisdiction over eighteen counties of the State of Arkansas, and over the whole territory of the Indian nations, occupied by the five civilized nations, viz, Cherokees, Creeks, Seminoles, Choctaws, and Chickasaws. The Chickasaw and Choctaw Nations lie north of the State of Texas and contiguous thereto; and their social and commercial intercourse are with the people of North Texas, and have always been since the earliest settlement of the respective countries.

The Chickasaw and that part of the Choctaw Nation which is proposed to be attached to Texas for judicial purposes have no commercial intercourse with the people of Arkansas. The average distance of travel from the Chickasaw Nation to Fort Smith, where the Federal court is held, is estimated to be not less than 250 miles by land, or 500 miles by railroad; and the same may be said of the southern part of the Choctaw Nation, which is proposed to be attached to Texas. The loss of time, expense, and inconvenience incurred by litigants, witnesses, and other persons residing in these localities who may be required to attend the court at Fort Smith, strongly impress your committee that it is the duty of Congress to provide more convenient and accessible places for holding the courts which exercise jurisdiction over the Territory.

There is, besides, no doubt in the minds of the members of your committee that the remoteness of the territory proposed to be attached to Texas from Fort Smith, where the courts are now held, encourages violations of the laws of the United States. The difficulty of procuring process aids offenders in escaping arrest, and, if arrested, the inconvenience, expense, and loss of time to be incurred by witnesses in attending the court at Fort Smith often induce witnesses to avoid the duty and permit the law to go unexecuted. The people of this territory sought to be attached to Texas are practically denied the means of enforcing the law and maintaining order. There is another consideration in this respect which has attracted the attention of the committee, and doubtless will secure the attention of Congress. We allude to the enormous

expense of the Federal courts at Fort Smith. No charge of improper conduct on the part of the officers has been brought to the attention of the committee, and we believe that the expenditure of public money in the western district of Arkansas in such unusual amounts may be properly attributed to the large territory over which the courts exercise jurisdiction and the inaccessibility of Fort Smith by railroad and otherwise to a large portion of that territory, and especially to that section of the territory proposed to be attached to Texas.

The committee believe that, while the people would be greatly benefited by the proposed change of the law, in respect to their convenience, loss of time, expenses, and surer means of enforcing the laws and preserving order, the Government would save large sums of money now unnecessarily if not uselessly expended. By reference to the report of the Attorney-General it appears that the expenses of the United States courts for the western district of Arkansas for the year 1882, and paid in the fiscal year 1883, amounted to $156,943.20—nearly $50,000 more than was expended in any other judicial district in the United States for the same time. In the eastern district of Arkansas only $48,075.67 was expended during that year, and that sum is not far from the average amount expended by all the other districts. It is, therefore, apparent that the bulk of the expenditures in the western district of Arkansas was on account of the jurisdiction of the courts over the Indian Territory. There can be but little doubt in the minds of any one who will examine the map and consider the lines of travel from the remote sections of the Indian Territory to Fort Smith, that much of such expenditures is wholly unnecessary and will be avoided by the changes proposed by the substitute reported by the committee.

The committee deem it proper to call special attention to the following extract from the Report of the Attorney-General, page 17, which is as follows:

JAIL AT FORT SMITH, ARK.

The district court at Fort Smith, Ark., has jurisdiction over many criminal offenses in the Indian Territory. A large number of prisoners are, therefore, necessarily held at that place. The county has no jail. They are, therefore, confined in the basement of the abandoned Army barracks, now used for court purposes. Officers of this Department who have recently visited Fort Smith report that the two rooms, in which are constantly crowded from 50 to 100 prisoners, are totally unfit for use as a jail, being damp and unhealthy. Nothing separates the foulest murderer from the detained witness. Young and old, innocent and guilty, are all crowded together. Although a physician is in constant attendance, prisoners who have entered this temporary jail in apparent good health have, after a few months' confinement, been released almost physical wrecks.

It would seem from the foregoing extract that considerations of humanity also call for a change in the manner in which the laws of the United States are executed in the Indian Territory. It is true that the Attorney-General recommends that an appropriation should be made to build a jail at Fort Smith, as, he alleges, the county will not probably erect one for several years to come. If the appropriation is made, and proper accommodations should be provided, the suffering attendant upon prison life at Fort Smith may be greatly mitigated, but the inability of the court to administer the law in all cases with that promptness required in criminal causes will still exist.

It was in proof before your committee that the court at Fort Smith was in actual session 297 days during the last year, and, notwithstanding the great labor performed by the judge of that court, the Attorney-General reports that "from 50 to 100 prisoners are constantly crowded into the two rooms used as a jail." This fact shows that the court at

Fort Smith is overworked and overloaded with business, and furnishes a strong argument in favor of the changes proposed by the bill reported. It is true that your committee heard no complaint from the judge of that court on account of the extraordinary amount of labor he is required to perform. On the contrary, your committee have been assured that he is uncomplaining and quite content to perform such an amount of labor; but, however commendable this may be, your committee do not believe that from 50 to 100 prisoners should be "constantly crowded into two rooms in the basement of abandoned Army barracks," subject to the suffering and perils described by the Attorney-General of the United States, there to await a trial before a court so greatly overburdened with business.

During the investigation of this subject by your committee, representatives of the interests of the Chickasaw and the southern part of the Choctaw Nations have appeared before it and strongly urged the necessity and propriety of some change in the Federal jurisdiction over the Indian Territory. The legislatures of both these nations have adopted resolutions approving the plan of attaching this section of the Indian Territory to Texas. It seems from the evidence before your committee that the people of the territory proposed to be attached to Texas are practically unanimous in favor of the changes proposed, for like reasons and considerations which have brought your committee to the conclusion that they ought to be made, and as early as practicable.

The committee further submit upon this branch of the subject that the changes contemplated by the substitute here reported, if adopted by Congress, will not reduce the territory or population over which the court at Fort Smith now has jurisdiction even to an average of territory and population usually assigned to judicial districts. It will still retain and exercise jurisdiction over eighteen counties in the State of Arkansas, and over the Cherokee, Seminole, and Creek Nations, and the northern half of the Choctaw Nation.

Your committee will now submit some of the reasons which induced it to adopt the second and third conclusions hereinbefore stated. The original bills referred to the committee contemplated attaching to the northern judicial district of the State of Texas all of the Chickasaw Nation and a part of the Choctaw Nation, and for the convenience of the people in those sections of the Indian Territory, as well as the citizens of Grayson, Cooke, and Montague Counties, in Texas, it was proposed to constitute a new division in the northern judicial district, to be composed of said counties and said portion of the Indian Territory, and terms of said courts to be held at Gainesville, in Cooke County, or at Sherman or Denison, in the county of Grayson. This proposition did not meet the approval of the committee upon full consideration of the subject, because it appeared to them that the entire portion of the Choctaw Nation lying south of the mountains and mainly embraced by the second judicial district (local) of the Choctaw Nation was as much entitled to be relieved of the inconvenience and burdens of existing judicial assignment at Fort Smith as either the Chickasaw or that portion of the Choctaw Nation mentioned in the original bills. The same considerations which make it proper to detach the Chickasaw Nation from Fort Smith apply with equal force to the southern part of the Choctaw Nation. When your committee arrived at that conclusion the question arose how the transfer of the territory should be made to the State of Texas for judicial purposes so as to best promote the object in view. It was submitted that the entire territory sought to be detached

from Fort Smith ought to be attached to the northern judicial district, and the jurisdiction of the court at Dallas be extended over it.

The committee did not approve that suggestion for the following reasons, mainly:

1st. The distance to be traveled from the central portions of the territory to be accommodated to the city of Dallas would be much greater than to either of the places named in the various propositions before the committee, and the expense to the people and to the Government would be correspondingly greater.

2d. The propositions before the committee not only contemplat d a readjustment and change of Federal jurisdiction over the Chickasaw and part of the Choctaw Nations, but a readjustment and change of Federal jurisdiction as respects the counties of Red River, Lamar, Fannin, Delta, Grayson, Cooke, and Montague, in the State of Texas. The proposition, therefore, to do no more than attach the Chickasaw and part of the Choctaw Nations to the northern judicial district of Texas, giving the court at Dallas jurisdiction over that territory, not only seemed unjust to the people of the Indian Territory, but also ignored whatever claims the people of Texas, residing in the counties named, might have for a readjustment and a more convenient and equitable adjustment of Federal jurisdiction as respects them than now exists. In view of what the committee believed to be an urgent necessity to change the Federal jurisdiction, as respects the Indian Territory, and in order to adopt the best plan to effect that object properly, it became necessary to ascertain where the court should be located in Texas which should exercise that jurisdiction, and whether in selecting such location the claims of the people residing in the counties named for a more equitable and convenient arrangement of Federal jurisdiction might not at the same time be accommodated.

It appeared to your committee, in view of the area of population and business relatively of the eastern and northern districts of the State of Texas, that those districts were unequally and inequitably organized. The labor required of the judge of the northern district is much greater than that required of the judge of the eastern district. It was therefore deemed unjust to the people of that district and to the judge to add additional territory to it by attaching the Indian Territory, unless a readjustment of the eastern and northern districts could be so far effected as to secure a reasonable equalization of the labors of the judges, and at the same time promote the convenience of the people who reside in the counties referred to. It therefore seemed improper to extend the jurisdiction of the court at Dallas over the Indian Territory. For like reasons the proposition to attach the Indian Territory to the northern district, and to locate the court either at Paris, Bonham, Denison, Sherman, or Gainseville, was also rejected.

The committee believe that the only just and fair method in which to adjust and settle the various conflicts of interests and convenience which have arisen out of the subject-matter before it, is set forth in the 2d and 3d conclusions of the committee as hereinbefore stated. That method will largely promote the convenience of the people who reside in the counties of Red River, Lamar, Delta, Fannin, Grayson, Cooke, and Montague, without injury to any interest proper to be considered when providing courts for the convenience of the people. It leaves the northern district with sufficient population and business to employ all the time of the judge of that district, and adds no more to the labors of the judge of the eastern district than should be added. It tends to

equalize the labors of the officers of the districts. It gives to the Indian population the best facilities for enforcing law and preserving order which can be suggested, and fixes the locations of the courts which are to exercise jurisdiction over them at cities where they trade, and where their social, commercial, and business relations are already formed. The committee deem it proper to say, that in selecting the places at which to hold the courts it was guided alone by considerations involving the convenience of the greatest number of people who are to be affected by the jurisdiction of the courts, if the measure proposed becomes a law.

The passage of the substitute is recommended to the House.

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