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Report : Mr. Ashley

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IN SENATE OF THE UNITED STATES.

JANUARY 6, 1847.

Submitted, and ordered to be printed.

Mr. ASHLEY made the following

REPORT:

[To accompany bill S. No. 18.]

The Committee on the Judiciary, to whom was referred the bill to divide the State of Arkansas into two judicial districts, and a memorial of the legislature of Arkansas on the same subject, report:

That the subject was before the Committee on the Judiciary at the last session of Congress, who made a report. That report is now adopted as the views of this committee, and is in the following words:

“The State of Arkansas contains more than fifty-five thousand square miles of territory, and the circuit and district courts of that State have jurisdiction over all the Indian country lying between the northern boundary of the Osage tribe of Indians and the boundaries of Texas; thus including the Cherokee, Creek, and Choctaw Indians, three of the largest tribes, and those further advanced in civilization than any others, besides several other smaller and less civilized tribes. The district of country thus included embraces an area of over one hundred thousand square miles. The Executive has already recommended the extension of the criminal laws over a portion of the Indian country in all cases, and it must be apparent that as the Indians advance in civilization, in social improvement, and in commerce with the whites, the necessity of an extension of our laws will become as apparent to them as to ourselves. At present the criminal jurisdiction only embraces a certain class of cases, but these are numerous and their prosecution at present attended with serious inconvenience.

“The district court of Arkansas is at present only held at Little Rock, a distance of over one hundred and sixty miles from the Indian line, and several hundred miles from the ultimate jurisdiction of the court. Prisoners and witnesses have thus to be transported a great distance, and far from the vicinage of the offence, where the character of the accused and witnesses may be known or readily ascertained. The difficulty of procuring the attendance of Indian witnesses is increased in proportion to the distance which they have to travel into the States. The mileage alone is a heavy item of expense, and the inconvenience of witnesses and suitors having to remain for weeks without the possibility of returning to their homes should be taken into consideration.

"The inconvenience to the judge of holding terms of his court near the Indian border is not to be compared to the expense to the public and the detriment to citizens.

"After the fullest consideration, therefore, your committee are of opinion that the public interest requires that the present judicial district of Arkansas should be divided, and the district judge required to hold at least two terms annually of his court at some point in the western part of the State.

"They are of opinion, also, that Van Buren, the seat of justice in Crawford county, is the most eligible point for holding the court for the western district. The most suitable division of the districts is suggested in the bill which your committee herewith report.

"The necessity of appointing a clerk, marshal, and district attorney for the western district, is the only additional expense which can accrue from the division; an expense not to be compared to the saving and convenience and more certain administration of justice from the division.

"Your committee, in support of the views which they take, beg leave to refer to an extract of a letter from General Matthew Arbuckle, commanding the western frontier, dated May 15, 1844, to Captain William Armstrong, superintendent of Indian affairs for the western territory, marked A; and a letter from William Armstrong, superintendent of Indian affairs for the western territory, marked B, which they make a part of this report, and report the accompanying bill."

A.

"I have reason to believe that there is at present more ill will felt between the lower class of Cherokees (of the different parties) than at any former periods, and that a remote separation of these parties is very desirable to insure their future quiet, particularly if Congress should fail to provide by law for the trial (before the United States courts) of all Indians charged with having committed murder or other high crimes on Indians of a different nation or Indian government; and I judge that further legal provision is necessary to give security to our citizens when passing through the Indian country, and that, to carry out the views of the President, *it is indispensably necessary that a United States court should be established at Van Buren, or at this place, (Fort Smith.) Such court has long been required here, or in this vicinity, and the necessity for it has greatly increased of late.*"

B.

WASHINGTON CITY, June 4, 1846.

SIR: In answer to yours of yesterday's date, stating you were about to report a bill for the consideration of Congress, from the Judiciary Committee of the Senate, to divide the present district of Arkansas into two judicial districts, and to require the district judge to hold court at Van Buren, near the Indian line, I beg leave to state that I look upon the pro-

posed change as an object of very great importance to the government, the Indians, and the citizens of Arkansas within the district. The distance to Little Rock from the Indian country, the difficulty, in consequence, of procuring the regular attendance of witnesses, increased by the fact that they are generally Indians, has resulted thus far, in most cases, in defeating the ends of justice. The bill you propose would very materially remedy the evil, and be the means of having a speedy administration of justice. The expenses attending the prosecution of the various suits on behalf of the United States would also be greatly lessened, and an early establishment of said court would be very desirable.

Very respectfully, your most obedient servant,

WM. ARMSTRONG,

Supt. Ind. Affairs, Western Territory.

HON. C. ASHLEY,

Chairman Judiciary Committee.