

## JUSTICES OF THE SUPREME COURT OF DAKOTA.

MARCH 11, 1884.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

### REPORT:

[To accompany bill H. R. 1682.]

*The Committee on the Judiciary, to whom was referred the bill (H. R. 1682) providing for two additional associate justices of the supreme court of the Territory of Dakota, beg leave to report:*

That they have had the same under consideration, and find that said Territory is the largest of all the States and Territories of the United States, Texas and California alone excepted, and has a population of not less than four hundred thousand, and is rapidly increasing, and yet the whole of the northern half of this vast Territory has only one judicial district, containing twenty-nine large counties, with but a single judge. This district alone has an area of 72,000 square miles, a population of 150,000, and an assessed valuation of nearly \$50,000,000. The Red River of the North bounds it on the east for nearly 200 miles, and the Missouri River runs through it a distance of 350 miles; both being navigable, and on the Missouri River a fleet of twenty steamboats, during the navigable season, ply between Bismarck and points above and below.

This district also has within its borders Forts Pembina, Totten, Buford, Stevenson, Lincoln, Rice, and Yates military reservations, and the Devil's Lake, Fort Berthold and Standing Rock Indian Agencies and Reservations, all of which produce a large amount of United States business, which is entirely separate and distinct from the civil and Territorial business, and which form the great bulk of the business of the court of that district. This renders it impossible for one judge, however able and diligent, to transact the business of his court, and this is especially true under the somewhat anomalous judicial systems of the Territories.

In addition to his duties in the lower court, this judge, under the present law, is required, with the other judges, to hold two terms of the supreme court each year at the capital of the Territory. To sum up, he holds two terms of the supreme court, two terms of the United States court, of six weeks each, and eighteen terms of the Territorial court, and to do this work is obliged to travel 2,500 miles. He is many months behind. In many counties the commissioners have petitioned the judge for a term of court, but he is unable to hold it, so that a large part of the people of this district are practically without any court at all. In many instances, in fact, in most of the counties, persons

charged with misdemeanors, who are unable to give bail, are compelled to lie in jail for nine months, and, in some instances, a year, before they can be tried, because the judge cannot hold a court to try them.

Under the law the judge is required to hold two terms of United States court, which consume one-fourth of his time, and the balance is consumed in trying criminal cases, where the person to be tried is in confinement, and has a right to demand a speedy trial, thus rendering the trial of civil causes almost an utter impossibility.

The condition in the proposed fifth district is practically the same, except as to the number of cases arising under the United States statutes, there being no real necessity for conferring upon this court jurisdiction to hear and try United States cases. As in the northern district, there are a number of counties clamoring for courts, and prisoners in confinement for months awaiting trial, which, without an additional judge, cannot be had for months to come, and the civil business of the courts is practically at a stand-still.

Your committee is of the opinion that the relief proposed by this bill is pressing and necessary, and that the number of judicial districts should be increased as provided, and therefore recommend that the said bill be amended as follows:

Amend section 4 so that "Roberts" County will be included in said fifth district.

Amend section 5 so that it will read as follows: "That until changed by the legislature of said Territory the sixth district shall consist of the following counties, namely: Boreman, Villard, Billings, Dunn, McKenzie, Allred, Buford, Flannery, Wallace, Montrail, Williams, Stark, Hettinger, Morton, Mercer, McLean, Stevens, Renville, Wynn, Bottineau, McHenry, Sheridan, Burleigh, Emmons, McIntosh, Logan, Kidder, Wells, De Smet, Rolette, Towner, Benson, Foster, Statsman, La Moure, Dickey, Griggs, Steele, and Barnes."

Amend section 8 so that it will read as follows: "That the district court for said sixth judicial district shall have and possess jurisdiction to try, hear, and determine any matter or cause in which the United States is a party, and all causes or matters in admiralty. And for such purposes two terms of said court shall be held annually in the city of Bismarck, in the county of Burleigh, and a grand and petit jury shall be summoned thereon in the manner now required by law in the United States courts in said Territory."

And when so amended that it do pass.