

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. HARLAN submitted the following

R E P O R T :

[To accompany bill S. 1513.]

*The Committee on Indian Affairs, to whom was referred Senate bill 1513, to carry out certain Indian treaties of 1866, and to organize the Territory of Oklahoma, report :*

That the United States has complete and absolute jurisdiction over all that part of the Indian Territory lying west of a line following the 96th meridian longitude, extending from the State of Kansas to the southern boundary of the Cherokee reservation; thence westward along the southern border of the Cherokee ceded lands to the western line of the Creek diminished reservation; thence south along the western border of said Creek reservation to the North Fork of the Canadian River; thence westward along said river to the west line of the Seminole reservation; thence south along said line to the Canadian River; thence westward along said river to the west boundary of the Chickasaw country; thence south along said line to the Red River, as will more fully appear from a perusal of article three of the treaty of July 10, 1866, with the Choctaw and Chickasaw Indians; article three of the treaty of August 16, 1866, with the Seminole Indians; article three of the treaty of August 11, 1866, with the Creek Indians; article sixteen of the treaty of August 11, 1866, with the Cherokee Indians.

We find that the United States have not parted with the jurisdiction over the territory above described by their several treaties with the Great and Little Osage Indians, Cheyennes and Arapahoes, Pottawatomies, Sacs and Foxes, Kiowas and Comanches, now inhabiting portions of said country, and consequently has the unrestrained right to enact laws for their government, and the administration of justice among them. Your committee also find by perusal of articles seven and eight of the before-named treaty with the Choctaws and Chickasaws, article seven of the said treaty with the Seminole Indians, article ten of said treaty with the Creeks inhabiting a large proportion of the territory lying east and south of the before-mentioned line, that said Choctaws and Chickasaws, Seminoles and Creeks, have conferred on the United States the right to establish territorial governments including their respective reservations; and by a perusal of articles twelve and thirteen of the treaty of August 11, 1866, with the Cherokees, have authorized the United States to establish courts within their diminished reserve, and a grand council to be composed of delegates from all the Indian tribes residing in the Indian Territory, as

will fully appear from a perusal of said articles of treaties hereto appended, and made a part of this report; and by reference to section 4 of "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1873, and for other purposes," that Congress has made appropriations from year to year to defray the expenses of said general legislative council, thus recognizing the authority and duty of the United States to provide laws for the common government of all the people residing within the whole of said Indian Territory, with a view to their consolidation as one community, and the administration of justice among them under the authority of uniform law.

But your committee are impressed with the inefficiency of laws enacted for the government of these people by general legislative assembly which must depend on each of twenty or more distinct and independent tribal organizations, and their imperfect system of courts, for adjudication and enforcement.

A common executive and courts established under general laws, it is obvious, must be as necessary to enforce the enactments of the laws of the general territorial council as are a chief executive and United States courts for the efficient and uniform adjudication and enforcement of the laws of the United States among the several States of the Union.

Your committee therefore recommend the passage of the before-mentioned bill with amendments, as herewith reported to the Senate.

The seventh article of the Choctaw and Chickasaw treaty of 1866 reads as follows:

The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of persons and property within the Indian Territory: *Provided, however,* Such legislation shall not in anywise interfere with or annul their present tribal organization or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs of the Choctaw and Chickasaw nations, respectively.

The tenth article of the Creek treaty of the same year is similar:

The Creeks agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided, however,* [That] said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs.

The first paragraph of the seventh article of the Seminole treaty of 1866 reads as follows:

The Seminole Nation agrees to such legislation as Congress and the President may deem necessary for the better administration of the rights of person and property within the Indian Territory: *Provided, however,* That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs.

The thirteenth article of Cherokee treaty of 1866 reads as follows:

The Cherokees also agree that a court, or courts, may be established by the United States in said Territory, with such jurisdiction and organized in such manner as may be prescribed by law: *Provided,* That the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country in which members of the nation, by nativity or adoption, shall be the only parties, or where the cause of action shall arise in the Cherokee Nation, except as otherwise provided in this treaty.