

MEMORIAL  
OF  
CITIZENS OF ARKANSAS,

REMONSTRATING

*Against the establishment of a United States court in the Indian Territory.*

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JANUARY 27, 1876.—Referred to the Committee on the Judiciary and ordered to be printed.

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*To the Senate and House of Representatives of the United States :*

GENTLEMEN: The undersigned, citizens of the State of Arkansas, have understood that there are bills now pending before your honorable body looking to the establishment of a Federal court at some point within the Indian Territory adjoining us on the west.

As our business and other relations with the several nations of these Indians, and our long acquaintance with their customs, their character, and their condition, have prepared us, we think, to decide upon the propriety of such a measure better than most, if not all, of the members of either branch of Congress, we feel it due alike to justice and to the better class of these helpless people—that class alone who deserve either the consideration or the protection of the Government—to speak out for them what they dare not speak out for themselves, and, in their behalf, to protest against the consummation of a measure which would have as its result only an aggravation of evils that are already so aggravated as to constitute a blot upon the civilization of the age.

Accordingly, we beg to call the attention of your honorable body to the following facts:

First. Of the seventy thousand Indians in this Territory, about fifty thousand do not understand enough of English to render them competent jurors.

Second. The negro population of these nations having not only been slaves, but slaves of an uncivilized race, have thus had a double barrier to their ever attaining sufficient intelligence to sit as jurors.

Third. Of their white population about seventy per cent. are refugees from justice of the States, the requisitions of whose governors do not run into this Territory.

Fourth. These desperadoes, together with their followers among the more vicious and uncivilized Indians, have organized a system of terrorism, which, if not positively encouraged, is certainly not rebuked by their politicians, who find profit in the existing condition, and which utterly forbids anything approaching freedom of expression or action and would render the administration of justice by jurors living in the Territory simply impracticable. Nor is it believed that it would be practicable to administer justice with juries taken even from the States and

protected by any military force now at the command of the Government.

We cannot better illustrate this terrorism than by a remark made a short time since by a very intelligent Indian to a citizen of Fort Smith. Upon being asked what his objection was to the adoption by these nations of a territorial government which would afford them some protection, he replied, "Of course you know I can have no possible objection to being free, and you know we over there can never be free to act and speak as we please until white people of the right kind get in to help those of us who desire law and order." "Then," said his interrogator, "why don't you advocate it and vote for it?" "Because," said he, "I can advocate and vote for one side with safety, while to advocate or vote for the other side would be as much as my life is worth, and you know none of us want to die as long as we can help it."

Fifth. There are from three to five witnesses before the district court at Fort Smith assassinated each year, between the semi-annual terms of the court.

Sixth. Hence the large number of attachments for witnesses which are found necessary in the conduct of criminal trials in the district court, held even in Arkansas. Witnesses rarely ever appear voluntarily, and even when constrained to appear, it is believed that in very many instances their apprehension of personal danger is so great as to deter them from testifying to the whole truth, if indeed it does not impel them to testify to the opposite to the truth.

Seventh. There have been assassinated in this Territory some twenty-three deputy marshals within the past six years, and twenty-seven others wounded.

Eighth. There have been issued from the district court during the past year one hundred and fifteen writs against persons in the Territory, charged with either murder or assault with intent to kill, and yet the court has jurisdiction of scarcely one tithe of the cases that arise, as it has jurisdiction of cases only where *white* persons are concerned.

From these prominent facts, together with many others connected with the character of the population of these nations and the topography of their country, the undersigned feel authorized to assert, with assured confidence, that an attempt to establish a Federal court in this Territory in its present condition, and with its present population, would not only prove a failure, but a mistake of the greatest possible consequence. It would inaugurate an era of assassinations of jurors, witnesses, marshals, lawyers, &c., unprecedented in the annals of even these Indian nations, the number of whose murders, within the past six years, will never be written, nor, indeed, ever known.

It would render protection of the lives and property of the better class of Indians even more precarious than it is now. It would intensify existing terrorism. It would, in short, be a cruelty as inexcusable as it would be extreme. It would, even in a pecuniary sense, add very largely to the cost—we will not so far violate the proprieties of speech as to say of administering justice, but of holding courts.

In view of these facts, the undersigned have felt called upon to venture this protest, without other apology than its intrinsic justice.

Respectfully submitted.

Granville Wilcox.  
B. Baer.  
L. Jeff. Baldwin.  
W. M. Fishback.  
W. Worth Builey.

Anton Schuster.  
William Eaper.  
H. Friesch.  
John Clavadtlescher.  
P. Bertram.

Thos. Grier.  
G. G. Shaver.  
S. B. Corrington.  
Jno. R. A. Hendry.  
Geo. T. Sparks.

Nelson Vickery, (Cherokee.)	J. H. Sparks.	J. G. Smith.
Henry Pape.	C. F. Fleming.	G. W. Schneider.
E. H. Devany.	Hy. Euser.	R. T. Largen.
P. K. Roots.	Henry Retzel.	W. W. Perry.
Jno. C. Manning.	B. F. Atkinson.	Wm. H. Rogers.
John Carnall.	Frank Freir.	E. Wall.
P. T. Devany.	Wm. Brun.	C. D. McKinney.
Thos. G. Scott.	E. W. King.	S. N. Payne.
Joe Pappenheimer.	Stephen Picchi.	W. T. Cumings.
N. D. Woods.	Chas. A. Birnie.	Sam. Hughes.
C. O. Brack.	John Gardner.	Jno. F. Wheeler.
T. Jeff. Cunningham.	W. B. Sutton.	Geo. H. Williams.
H. A. Tibbitts.	E. B. Bright.	Noble Washington.
Frank Parke.	Mathias Aults.	D. Dell.
Patrick Frizzell.	R. F. Dickins.	Samuel Dean.
Wm. J. Frizzell.	W. J. Weaver.	Conrad Triesch.
Henry Hinch.	Sam'l J. Scott.	E. H. Heming.
Patrick Devlin.	J. W. Scott.	J. R. Stephens.
Aug. Handlin.	D. Betts.	Henry Wagman.
John Kennedy.	I. O. Daniels.	Joe S. Miller.
P. R. Davis.	J. C. Swift.	Leander Forter.
John Vaughan.	John Beekel.	W. A. Fitcher.
Chas. Bracht, sr.	E. Rector.	Frank Casey.
Chas. J. Bracht, jr.	Simon Baer.	M. H. Saudels.
S. M. Hamilton.	Casper Bentzel.	John Guler.
Samuel Bollinger.	John P. Slosson.	Edward Zarniskow.
Michael Brogan.	Jackson King,	Z. Brunoldi.
Samuel McLowd.	(Cherokee.)	Edward Richards.
Conrad Nachbar.	C. G. Weigand.	John Nevill.
Lindley Abel.	A. Haglin.	Pat Keating.
J. C. Pritchard.	J. E. Hodgens.	M. Joel.
J. Adler.	Frank Weaver.	J. C. Beb.
C. D. Masler.	Julius Geisey.	W. J. Doyle.
John C. Wheeler.	M. I. Watts.	Alford Sacks.
Charles Kayser.	John Kemp.	John Reutzel.
John Pearson.	J. R. Wren.	H. A. Schneider.
A. Haner.	Chas. Hoffmann.	Fred. G. Hicken.
W. C. Pearson.	H. Hoffmann.	Otto Companion.
Ed. McKenna.	Louis Coring.	Joseph Preisces.
C. F. Bocejem.	James Greer.	J. D. Chapman.
Ch. Stunder.	John Colbert.	Tilman Knox.
I. Eberle.	G. W. Mullin.	C. J. Smith.
H. Stone.	Wisney Brown.	A. Fain.
Wm. C. Mitchell:	Thos. Doyle.	Chas. Oliver.
	T. B. Douglass.	