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Supreme Court of the United States
Washington, D.C.
February 21, 1929.

My dear Senator Norris:

I am advised by Congressman Newton that the bill to divide the 8th Judicial Circuit passed the House of Representatives unanimously on February 18th. The bill divides the 8th Circuit by providing for a new Circuit, to be called the 10th, and including therein, out of the present 8th Circuit, Kansas, Oklahoma, Wyoming, Colorado, Utah and New Mexico.

I write to urge the passage of this bill at this session. My ground for urging its passage is the undue size of the 8th Circuit as now constituted in the Judicial Circuits of the United States. It embraces thirteen States, and reaches from the north line of Louisiana and Texas and the Mexican border to Canada, and from the Mississippi River to the Rocky Mountains. This is much too large for practical purposes.

While there is inequality among the other Circuits, there is no such inequality as would make imperative a change among them. In the 8th Circuit, however, the burdens of the docket and the duties imposed upon the Circuit Judges are such as to render a change most desirable.

The six Circuit Judges in that Circuit, though necessary to keep up with the work, create another difficulty. They make two Supreme Courts (for that is what they amount to) in the same 8th Circuit, and this prevents the uniformity of decision that is very necessary in one Circuit having theoretically only one Circuit Court of Appeals. Cases have been decided by the two

different courts in the same 8th Circuit which have been thought not consistent.

There are thirteen States in the 8th Circuit, States where the State Legislatures enact laws, the validity of which is often questioned in what we know as the three-Judge Court in the District Courts. Such a hearing requires the presence of two District Judges and one Circuit Judge, and imposes a heavy duty on the Circuit Judges of the Circuit, in view of its wide area and vast population. Litigation of this kind can be much more expeditiously heard if the Circuit is divided into two.

These features lead me to say that the retention of the 8th Circuit in its present form is a real obstruction to the disposition of business there, and to recommend the division proposed by the present bill.

It has been a work of long effort to secure acquiescence in the present proposed division, because of the many varied objections that have been presented to a different arrangement. The people of that region, the Judges, the lawyers and the litigants have finally come to this arrangement as a compromise. If the step is taken, and any defect appears, it will be much easier to have a State transferred from one Circuit to another than to agree upon another compromise. I don't urge the change on the ground that it is a perfect change, but I urge it that we may make progress.

Of course this will make ten Circuits. There have been before in the history of the Court ten Circuits, but heretofore there has been objection to that number, because the old system of procedure made it more convenient to have the same number of Justices of the Supreme Court as Circuits; but under the changes

in the law and the practical inability of the Justices to attend at all the meetings of the Circuit Courts of Appeal, as well as the abolition of their power to sit in the District Courts, the objection has little weight. There would be no practical difficulty in assigning, for miscellaneous business in two Circuits, the same Circuit Justice.

Sincerely yours,

Wm. H. Taft

Hon. George W. Norris,
Chairman, Committee on the Judiciary,
United States Senate,
Washington, D. C.