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### Five Civilized Tribes

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IN THE SENATE OF THE UNITED STATES.

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MARCH 7, 1894.—Referred to the Committee on Indian Affairs and ordered to be printed.

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Mr. TURPIE presented the following

**LETTERS FROM MEREDITH H. KIDD, OF THE COMMISSION TO FIVE CIVILIZED TRIBES, REGARDING THE ADMINISTRATION OF JUSTICE IN THE TERRITORY OF THE FIVE TRIBES.**

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INTERIOR DEPARTMENT,  
COMMISSION TO FIVE CIVILIZED TRIBES,  
*Muscogee, Ind. T., February 24, 1894.*

DEAR SIR: Soon after my arrival here grievous complaints came to my knowledge regarding the administration of justice in the Territory of the Five Tribes. Such time as I could snatch from my official duties I devoted to an examination of the real situation here, and what cause there was for such complaints. It is a scandal to the Government, besides being a great unnecessary expense. I believe it to be my duty as a citizen to make some suggestions that may aid you in comprehending the importance of attention to this subject.

The courts at Fort Smith and at Paris have jurisdiction in this Territory, and a Territorial court also has jurisdiction. Each of these courts have a brood of deputy marshals who traverse this country, arrest citizens for slight offenses, carry them sometimes 100 or 200 miles, take them before a commissioner, and have them bound over to appear at one of the courts. There are nine U. S. commissioners whose sole duty it is to hold preliminary examinations and place under bond for their appearance at one of these courts. Deputy marshals and commissioners' compensation depends upon the number of cases disposed of by them, and in the absence of responsibility to the people great energy is displayed in bringing the most trifling causes before them, such causes often costing the Government from \$50 to \$100, and oppressing the people by carrying them great distances for examination and in case they are held to answer attending courts at distant points. All of which is at the expense of the United States.

I am not advised as to the income of deputy marshals, but commissioners receive from the Government from \$5,000 to \$7,000 per annum. The vast amount of these trifling causes finding their way to the Territorial court so increases the business of the court that the clerk is receiving from the Government from \$22,000 to \$25,000 per year. Is it to be wondered at that the Attorney-General in his last report complains

of the expenses of the judiciary in this Territory, costing as it does over \$525,000 a year. I respectfully invite your attention to what he says commencing on page 20 of his report. Besides this enormous expense the system is most oppressive to the people of anything this side of Russia, and in Indiana would produce a revolution in less than six months. The whole thing is patch work, the result of an attempt to improve things by additional legislation.

It is a waste of time to attempt to improve it by further amendment, and ought to be cut up root and branch. After giving the matter the most serious consideration I am convinced it should be supplanted by something like the following:

Create a Territorial court with unlimited jurisdiction, provide for at least 25 commissioners, to be appointed by the judge and subject to removal by him, who should have jurisdiction to hear and determine by the aid of a jury of six all prosecutions for misdemeanors, and all civil causes where the amount involved does not involve over \$300. These commissioners to be paid \$1,000 a year salary, and to have reasonable fees in civil causes, to be collected off the losing party. From these courts appeal should lie to the Territorial court. There would be no trouble in obtaining competent men for these positions at this salary.

To each of these courts should be attached a deputy marshal, whose pay should be \$500 a year and such fees as he might receive in civil causes. It would also be necessary to have a deputy prosecutor at each of these courts, whose pay should be \$500 a year, with a small docket fee of \$5 or \$10, to be collected of the defendant in cases of conviction.

The U. S. district attorney for this Territory, who, by the way, is a most estimable officer, informs me that under such a system one judge could try all causes of felonies and appeals and civil causes involving more than \$300 for the entire Territory. This I very much question, and think there ought to be two judges to insure a speedy dispatch of business and to enable him to hold courts in a sufficient number of places to bring the trial within convenient distance of litigants. You may form some idea on this subject by supposing that one judge was required to hold courts in Indiana at as many places as would be practicable for one judge — remembering this Territory is larger than Indiana.

A judiciary after this fashion would not cost the Government more than \$125,000 a year, and tend to inspire respect for courts and the administration of justice.

Another baleful influence proceeding from the present organization is that it compels parties and witnesses, many of whom are Indians, to attend court at Fort Smith and Paris, and brings them within the influence of saloons and bawdyhouses, and leading to the introduction of whisky among the Indians and venereal diseases throughout the Territory.

Briefly, I have endeavored to outline what seems to me to be best for these people. I trust that you will not regard it an impertinence, as I have done it solely from a sense of duty to the country.

I am sir, very truly, yours,

M. H. KIDD.

Hon. DAVID TURPIE,  
Washington, D. C.

INTERIOR DEPARTMENT,  
COMMISSION TO FIVE CIVILIZED TRIBES.  
*Muscogee, Ind. T., March 3, 1894.*

DEAR SIR: Since writing my letter to you of the 24th ultimo, some matters have suggested themselves to me, which I desire to state.

I then expressed the opinion that reformation of the judicial system in force here was not practicable, and it ought to be abolished. This may imply a reflection on the judges of the courts at Fort Smith, Paris, and the Indian Territory. If any such inference can be fairly drawn from what I there said, I desire to disclaim any such purpose. So far as I am informed the judges of these courts are excellent officers. Judge Stuart, of the Indian Territory court, deservedly enjoys the reputation of being an able, industrious, and honorable man, and I presume the same is true of the others. It was the system I was inveighing against.

I have investigated further the question whether one judge could properly dispose of the business of the Territory, and I am convinced he could not, and I now suggest that it would be wise to allow Judge Parker to hold four terms of court for the Cherokee district at Vinita, and that Judge Bryant hold four terms of court in the year at Ardmore in the Chickasaw country, and that Judge Stuart hold four terms a year in Muscogee and McAlester as now, having jurisdiction of the Creek and Choctaw country. This would avoid any additional judge, and bring the courts within a reasonable distance of the people. I understand the volume of business at Fort Smith and Paris would allow ample time for the judges to hold these courts in this Territory without being overworked.

The duties of U. S. attorneys and marshals should be increased with the jurisdiction of the judges.

The reasons for sending people to Fort Smith and Paris to be tried were that competent and impartial jurors could not be obtained in this Territory. There are no grounds for this objection, as the white citizens of this Territory are quite as impartial and intelligent as in Arkansas and Texas; indeed, they are mostly from these States and up to the average of the people there.

In this connection I desire to call attention to the remarks of Senator Vest on this subject, which shows he accurately understood the situation here, and in which I fully concur. See Congressional Record, first session, 1892, beginning at the foot of page 4347. Referring to juries in these courts, it would be well, as it seems to me, to require the jury to be composed of one-half Indians and one-half whites where an Indian is a party. This would protect the Indian against any possible injustice resulting from race prejudice. Many Indians here are far above the average intelligence of jurors in the States, and I believe it would be a great benefit to the Indians if some were placed on all juries. It would familiarize them with our mode of administering justice, increase their self-respect, and greatly aid in preparing them for the change soon to come.

Permit me to add as an additional reason for reforming the judicial system here that it is a disgrace to civilization to see the hundreds of men confined in jails here for trifling offenses and kept awaiting trial. Men are arrested and carried hundreds of miles from home, among entire strangers, and sent to prison to await trial for want of a proper bond. You can realize these enormities by reflecting how many poor and friendless men in Indiana could be carried a hundred miles from home and not able to give a bond to appear for trial, even if the

charge were trifling. The jails here remind one of the prison pens beside the great road to the Siberian mines.

You are at liberty to use this and my former letter in any way you may think will call attention to the situation here and aid in effecting a remedy. Their publicity would exasperate some people here, who are likely to lose their large incomes if a change shall be made; but no personal inconvenience shall deter me from aiding the oppressed. Indeed, it is a matter of astonishment to me that this matter has not heretofore been laid before Congress by some of the good and able men who reside in the Territory, and I can only account for it by the fact that the evil is so far from the power to correct it a general indifference seems to have settled upon all.

I am, Senator, very truly, yours,

M. H. KIDD.

Hon. DAVID TURPIE,  
*U. S. Senate, Washington, D. C.*

